

4-18-88
Vol. 53 No. 74
Pages 12671-12758

Monday
April 18, 1988

Government Printing Office



GENERAL INFORMATION: The Government Printing Office (GPO) is the official printer of the United States Government. It is located at 5300 Reservoir Road, Washington, D.C. 20540. The GPO is a part of the U.S. Government and is responsible for the production and distribution of all official government publications. It is the largest publisher in the world, with a staff of over 10,000 employees. The GPO's products include books, pamphlets, forms, maps, and other printed materials. It also provides a variety of services, such as proofreading, typesetting, and printing. The GPO is committed to providing high-quality products and services at a reasonable cost to the government and the public.

The GPO is a part of the U.S. Government and is responsible for the production and distribution of all official government publications. It is the largest publisher in the world, with a staff of over 10,000 employees. The GPO's products include books, pamphlets, forms, maps, and other printed materials. It also provides a variety of services, such as proofreading, typesetting, and printing. The GPO is committed to providing high-quality products and services at a reasonable cost to the government and the public.

The GPO is a part of the U.S. Government and is responsible for the production and distribution of all official government publications. It is the largest publisher in the world, with a staff of over 10,000 employees. The GPO's products include books, pamphlets, forms, maps, and other printed materials. It also provides a variety of services, such as proofreading, typesetting, and printing. The GPO is committed to providing high-quality products and services at a reasonable cost to the government and the public.

There are no changes in the regulations of the GPO.

How to Buy: The GPO is a part of the U.S. Government and is responsible for the production and distribution of all official government publications. It is the largest publisher in the world, with a staff of over 10,000 employees. The GPO's products include books, pamphlets, forms, maps, and other printed materials. It also provides a variety of services, such as proofreading, typesetting, and printing. The GPO is committed to providing high-quality products and services at a reasonable cost to the government and the public.

SALES INFORMATION AND ORDER

For more information, contact the GPO at 5300 Reservoir Road, Washington, D.C. 20540. The GPO is a part of the U.S. Government and is responsible for the production and distribution of all official government publications. It is the largest publisher in the world, with a staff of over 10,000 employees. The GPO's products include books, pamphlets, forms, maps, and other printed materials. It also provides a variety of services, such as proofreading, typesetting, and printing. The GPO is committed to providing high-quality products and services at a reasonable cost to the government and the public.

For more information, contact the GPO at 5300 Reservoir Road, Washington, D.C. 20540. The GPO is a part of the U.S. Government and is responsible for the production and distribution of all official government publications. It is the largest publisher in the world, with a staff of over 10,000 employees. The GPO's products include books, pamphlets, forms, maps, and other printed materials. It also provides a variety of services, such as proofreading, typesetting, and printing. The GPO is committed to providing high-quality products and services at a reasonable cost to the government and the public.

For more information, contact the GPO at 5300 Reservoir Road, Washington, D.C. 20540. The GPO is a part of the U.S. Government and is responsible for the production and distribution of all official government publications. It is the largest publisher in the world, with a staff of over 10,000 employees. The GPO's products include books, pamphlets, forms, maps, and other printed materials. It also provides a variety of services, such as proofreading, typesetting, and printing. The GPO is committed to providing high-quality products and services at a reasonable cost to the government and the public.



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for \$340.00 per year, or \$170.00 for 6 months in paper form, or \$188.00 per year, or \$94.00 for six months in microfiche form, payable in advance. The charge for individual copies is \$1.50 for each issue, or \$1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 52 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202-783-3238
Magnetic tapes	275-3328
Problems with public subscriptions	275-3054

Single copies/back copies:

Paper or fiche	783-3238
Magnetic tapes	275-3328
Problems with public single copies	275-3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523-5240
Magnetic tapes	275-3328
Problems with Federal agency subscriptions	523-5240

For other telephone numbers, see the Reader Aids section at the end of this issue.

Contents

Federal Register

Vol. 53, No. 74

Monday, April 18, 1988

African Development Foundation

NOTICES

Meetings; Sunshine Act, 12745

Agricultural Marketing Service

PROPOSED RULES

Nectarines grown in California, 12687

Pears, plums, and peaches grown in California, 12691

Agricultural Stabilization and Conservation Service

RULES

Marketing quotas and acreage allotments:

Tobacco, 12675

Agriculture Department

See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Farmers Home Administration

RULES

Acquisition regulations

Correction, 12748

NOTICES

Cooperative agreements:

Harlan E. Moore Heart Research Foundation, 12713

Coast Guard

RULES

Ports and waterways safety:

Tampa Bay, FL; regulated navigation areas and limited access areas, 12679

PROPOSED RULES

Drawbridge operations:

Alabama, 12707

Florida, 12708

Regattas and marine parades:

Chesapeake Bay Bridges Swim Race, 12706

Commerce Department

See International Trade Administration; National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements

NOTICES

Cotton, wool, and man-made textiles:

Dominican Republic, 12715

Consumer Product Safety Commission

NOTICES

Meetings; Sunshine Act, 12745

Defense Department

NOTICES

Meetings:

Integrated Long-Term Strategy Advisory Committee, 12715

Economic Regulatory Administration

NOTICES

Consent orders:

Dorchester Master Ltd. Partnership et al., 12715

Natural gas exportation and importation:

IGI Resources Inc., 12722

Energy Department

See Economic Regulatory Administration; Energy Information Administration; Energy Research Office; Federal Energy Regulatory Commission; Western Area Power Administration

Energy Information Administration

NOTICES

Forms; availability, etc.:

Petroleum Supply Reporting System Forms, 12723

Energy Research Office

NOTICES

Grants; availability, etc.:

Special research program in subsurface science, 12726

Environmental Protection Agency

RULES

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update, 12680

Toxic chemical release reporting; community right-to-know

Correction, 12748

PROPOSED RULES

Toxic substances:

Testing requirements—

Isopropanol; correction, 12748

NOTICES

Water pollution control:

Disposal site determinations—

East Everglades area, FL, 12729

Executive Office of the President

See Presidential Documents

Export Administration

See International Trade Administration

Farmers Home Administration

PROPOSED RULES

Program regulations:

Appeals procedures; national appeals staff establishment, etc., 12695

Federal Deposit Insurance Corporation

NOTICES

Meetings; Sunshine Act, 12745

(3 documents)

Federal Emergency Management Agency

RULES

Disaster assistance:

Community disaster loan program, 12681

Federal Energy Regulatory Commission

RULES

Natural gas companies (Natural Gas Act):

Purchased gas adjustment regulations—

Reporting and recordkeeping requirements, 12676

Sales and purchases abandonment under expired, terminated, or modified contracts—

Reporting and recordkeeping requirements, 12677

PROPOSED RULES

Natural Gas Policy Act:

Natural gas produced from Devonian shale: definition revision, 12704

NOTICES

Natural gas certificate filings:

Natural Gas Pipeline Co. of America et al., 12724

Federal Highway Administration

NOTICES

Environmental statements; notice of intent

Fayette County, PA, 12744

Federal Home Loan Bank Board

NOTICES

Receiver appointments:

First Federal Savings & Loan Association of Shawnee, 12729

Tri-Cities Savings & Loan Association, 12729

Federal Home Loan Mortgage Corporation

NOTICES

Meetings; Sunshine Act, 12746

Federal Reserve System

NOTICES

Applications, hearings, determinations, etc.:

Gulledge, Loretto A., 12729

Southern Bankshares, Inc., et al., 12729

Union Bankshares, Inc., 12730

Union National Corp.; correction, 12730

Federal Trade Commission

NOTICES

Meetings; Sunshine Act, 12746

Food and Drug Administration

RULES

Food additives:

Irradiated foods; production, processing, and handling, 12756

Health and Human Services Department

See Food and Drug Administration; Health Care Financing

Administration; Health Resources and Services

Administration; National Institutes of Health

Health Care Financing Administration

RULES

Medicaid:

Payments to institutions; post-eligibility determinations for institutionalized individuals

Correction, 12681

Health Resources and Services Administration

NOTICES

Grants and cooperative agreements:

Rural health research centers, 12730

Interior Department

See Land Management Bureau; National Park Service;

Surface Mining Reclamation and Enforcement Office

Internal Revenue Service

RULES

Income taxes:

Consolidated return regulations; deferral of gain or loss, 12678

Movie and television films and tapes; investment credit, 12677

PROPOSED RULES

Income taxes:

Consolidated return regulations; deferral of gain or loss; cross-reference, 12705

International Trade Administration

NOTICES

Antidumping and countervailing duties:

Granite products from—

Spain, 12713

Justice Department

NOTICES

Pollution control; consent judgments:

Apex Orchards, Inc., 12732

Conoco, Inc., 12732

U.S. Trustee System; judicial districts certification:

Michigan and Ohio, 12733

Land Management Bureau

NOTICES

Environmental statements; availability, etc.:

Utility corridor lands, AK, 12731

Realty actions; sales, leases, etc.:

Nevada, 12731

Maritime Administration

NOTICES

Trustees; applicants approved, disapproved, etc.:

Shawmut Bank of Boston, N.A., 12744

National Aeronautics and Space Administration

NOTICES

Meetings:

Aeronautics Advisory Committee, 12733

National Archives and Records Administration

NOTICES

Agency records schedules; availability, 12733

National Institutes of Health

NOTICES

Meetings:

Recombinant DNA Advisory Committee, 12752

Recombinant DNA molecules research:

Actions under guidelines—

Proposed, 12752

National Oceanic and Atmospheric Administration

PROPOSED RULES

Fishery conservation and management:

Atlantic sea scallop, 12709

Western Pacific bottomfish and seamount groundfish, 12712

NOTICES

Deep seabed mining; exploration licenses; mine site area revisions:

Ocean Management, Inc., 12714

National Park Service**NOTICES****Meetings:**

- Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission, 12732

National Science Foundation**NOTICES****Meetings:**

- Interagency Arctic Research Policy Committee, 12734

Nuclear Regulatory Commission**NOTICES****Abnormal occurrence reports:**

- Periodic reports to Congress, 12734

Meetings:

- Reactor Safeguards Advisory Committee, 12734
- Proposed schedule, 12735

Applications, hearings, determinations, etc.:

- Arizona Public Service Co. et al., 12736
- Finlay Testing Laboratories Inc., 12738

Postal Service**NOTICES**

- Meetings: Sunshine Act, 12746

Presidential Documents**PROCLAMATIONS****Special observances:**

- Gaucher's Disease Awareness Week (Proc. 5796), 12673
- Stuttering Awareness Week, National (Proc. 5795), 12671

Public Health Service

- See Health Resources and Services Administration; National Institutes of Health

Securities and Exchange Commission**NOTICES**

- Agency information collection activities under OMB review, 12740

Self-regulatory organizations; proposed rule changes:

- Philadelphia Stock Exchange, Inc., 12740

Applications, hearings, determinations, etc.:

- Balboa Development, Inc., 12741
- Eli Scientific, Inc., 12742
- General Defense Corp., 12742
- Nationwide Life Insurance Co., 12743

Surface Mining Reclamation and Enforcement Office**PROPOSED RULES**

- Permanent program and abandoned mine land reclamation plan submissions: Ohio, 12705

Tennessee Valley Authority**NOTICES**

- Meetings: Sunshine Act, 12746

Textile Agreements Implementation Committee

- See Committee for the Implementation of Textile Agreements

Transportation Department

- See Coast Guard; Federal Highway Administration; Maritime Administration

Treasury Department

- See Internal Revenue Service

Western Area Power Administration**NOTICES****Power rate adjustments:**

- Pick-Sloan Missouri Basin Program-Eastern Division, 12727

Separate Parts In This Issue**Part II**

- Department of Health and Human Services, National Institutes of Health, 12752

Part III

- Department of Health and Human Services, Food and Drug Administration, 12756

Reader Aids

- Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR**Proclamations:**

5795..... 12671
5796..... 12673

7 CFR

724..... 12675
725..... 12675
726..... 12675

Proposed Rules:

916..... 12687
917..... 12691
1900..... 12695
1980..... 12695

18 CFR

389 (2 documents)..... 12676,
12677

Proposed Rules:

272..... 12704
274..... 12704

21 CFR

179..... 12756

26 CFR

1 (2 documents)..... 12677,
12678

Proposed Rules:

1..... 12705

30 CFR**Proposed Rules:**

935..... 12705

33 CFR

165..... 12679

Proposed Rules:

100..... 12706
117 (2 documents)..... 12707,
12708

40 CFR

300..... 12680
372..... 12748

Proposed Rules:

795..... 12748
799..... 12748

42 CFR

435..... 12681
436..... 12681

44 CFR

205..... 12681

48 CFR

439..... 12748
452..... 12748

50 CFR

650..... 12709
683..... 12712

Presidential Documents

Title 3—

The President

Proclamation 5795 of April 13, 1988

National Stuttering Awareness Week, 1988

By the President of the United States of America

A Proclamation

The uniquely human ability to communicate thoughts through speech allows us to share our ideas almost as quickly as they occur, with little conscious effort. But for the more than three million Americans who stutter, speech is associated with struggle. Rapid-fire repetitions of sounds, prolonged vowels, and verbal blocks disrupt the smooth and easy flow of speech and limit the spontaneous exchange of ideas and feelings. Many stutterers suffer frustration and embarrassment that can lead to harmful emotional stress.

Stuttering has a tendency to be inherited, and it affects four times as many males as females. Children usually outgrow stuttering before reaching adulthood. When the disorder continues or begins in adults, it is considered chronic and very difficult to control.

Just what causes stuttering is not yet known, but research is providing clues. In normal speech, the brain and more than 100 muscles of the vocal system work together to produce fluent sounds. Within the larynx, one set of muscles contracts to pull the vocal folds apart and works in close coordination with the set of muscles that allows the folds to close. In stuttered speech, however, these muscle sets do not coordinate properly, preventing normal movement of the vocal folds.

Focusing on this specific malfunction, scientists at the National Institute of Neurological and Communicative Disorders and Stroke (NINCDS) have developed a promising, but as yet experimental, treatment for severe chronic adult stutterers. Injections to the larynx temporarily paralyze one of the muscles, easing the disruptive tug-of-war between opposing muscles and thereby improving speech.

The NINCDS leads the Federal government's research effort on stuttering, funding projects around the country in addition to conducting studies in its own laboratories. Research supported by private voluntary health agencies adds to the growing pool of knowledge. These private organizations also provide invaluable counseling and other services to stutterers and their families. Together, Federal and private groups call attention to simple ways the public can help; for example, many stutterers actually improve their speech when listeners know to be patient and supportive.

To enhance public awareness of stuttering, the Congress, by Public Law 100-263, has designated the period of May 9 through May 15, 1988, as "National Stuttering Awareness Week" and authorized and requested the President to issue a proclamation in observance of that event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the period of May 9 through May 15, 1988, as National Stuttering Awareness Week, and I call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of April, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 88-8498

Filed 4-14-88; 12:08 pm]

Billing code 3195-01-M

Presidential Documents

Proclamation 5796 of April 13, 1988

Gaucher's Disease Awareness Week, 1988

By the President of the United States of America

A Proclamation

Gaucher's disease, the most common of a group of inherited disorders known as lipid storage diseases, afflicts more than 20,000 Americans. It most commonly strikes people of Eastern European Jewish descent, affecting approximately one in every 2,500 people in this group.

Investigators at the Federal government's National Institute of Neurological and Communicative Disorders and Stroke (NINCDS) discovered that Gaucher's disease is caused by the failure of the body to produce an enzyme needed to break down fatty substances called lipids that arise from the normal renewal of the body's cells and tissues. In Gaucher's disease, a specific lipid builds up in body tissues, causing enlargement of the spleen and liver, bone pain, and fractures. In severe cases, serious neurological disorders may occur.

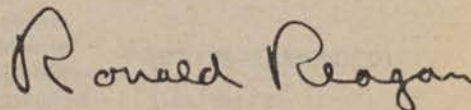
NINCDS scientists and other investigators supported by both public and private funds have narrowed the search for effective management and treatment of this disease. It is now possible to identify carriers of Gaucher's disease. The gene responsible for producing the needed enzyme has been cloned and its structure in normal individuals and Gaucher's disease patients is being studied. Scientists are continuing to refine techniques for replacing the missing enzyme as a useful form of therapy. They are also examining methods that may eventually allow them to replace the defective gene and provide a permanent cure.

Gaucher's patients are further encouraged and sustained by the work of dedicated voluntary health agencies such as the National Gaucher Foundation. These groups provide information and services to patients and their families and work closely with the NINCDS to promote research. When Gaucher's disease is finally conquered, it will be thanks to the cooperative efforts of both private and Federal agencies.

To enhance public awareness of Gaucher's disease, the Congress, by Public Law 100-254, has designated the week beginning October 16, 1988, as "Gaucher's Disease Awareness Week" and authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 16, 1988, as Gaucher's Disease Awareness Week, and I call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of April, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.



Rules and Regulations

Federal Register

Vol. 53, No. 74

Monday, April 18, 1988

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Parts 724, 725 and 726

Tobacco Acreage Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final Rule.

SUMMARY: This rule adopts, as a final rule, with minor adjustments, an interim rule which was published in the *Federal Register* on June 11, 1987, [52 FR 22287]. This rule amends the regulations at 7 CFR Parts 724, 725 and 726 to provide that tobacco allotments and/or marketing quotas that are subject to a Conservation Reserve Program (CRP) approved contract shall not be eligible for sale under current applicable voluntary sale provisions during the term of the contract. The final rule also would permit the sale of previously purchased or reallocated burley and flue-cured tobacco marketing quotas by producers when certain hardship situations exist. The county Agricultural Stabilization and Conservation (ASC) committee, with the concurrence of a State ASC committee representative, may approve the sale of purchased and reallocated quotas in individual cases.

EFFECTIVE DATE: April 18, 1988.

FOR FURTHER INFORMATION CONTACT:

Donald M. Blythe, Agricultural Program Specialist, Tobacco Program Adjustment Branch, Tobacco and Peanuts Division, USDA-ASCS, P.O. Box 2415, Washington, DC 20013 (202) 447-4281.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation No. 1512-1 and has been classified as "not major." It

has been determined that this rule will not result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises, to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 29, 1983).

An interim rule was published in the *Federal Register* on June 11, 1987 (52 FR 22287), to provide that tobacco acreage allotments and marketing quotas subject to a Conservation Reserve Program contract may not be sold voluntarily until the CRP contract expires. The interim rule also permitted the sale of previously purchased and/or reallocated quota when certain hardship situations exist.

One comment was received from a farm organization in response to the interim rule. This comment was in support of the change with respect to the sale of previously purchased and/or reallocated quota in certain hardship cases as provided for in the interim rule. No other comments were received. Accordingly, it has been determined that these provisions of the interim rule should be adopted as a final rule.

However, the provisions in the interim rule which amended 7 CFR 726.68 with respect to prohibiting the sale of burley tobacco quota subject to a Conservation Reserve Program contract have been determined to be unnecessary since the

voluntary sale of burley tobacco quota is not authorized, except in certain exceptional circumstances, by the Agricultural Adjustment Act of 1938, as amended. Accordingly, these provisions of the interim rule have been removed. In addition, certain provisions of the interim rule in 7 CFR 725.72 and 726.68 have been rewritten for clarity.

Accordingly, the proposed rule which we published in the *Federal Register* on June 11, 1987 (52 FR 22287) is adopted, with the above modification and minor changes, as a final rule.

List of Subjects in 7 CFR Parts 724, 725 and 726

Acreage allotments, Marketing quotas, Reporting and recordkeeping requirements, Tobacco.

Final Rule

Accordingly, Chapter VII, Title 7 of the CFR is amended as follows:

PART 724—[AMENDED]

1. In Part 724:

a. The authority citation for Part 724 continues to read as follows:

Authority: Secs. 301, 313, 314, 314A, 316, 316A, 317, 363, 372-375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 96 Stat. 215, 75 Stat. 469, as amended, 96 Stat. 205, 79 Stat. 66, as amended, 52 Stat. 63, as amended, 65-66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314, 1314-1, 1314b, 1314b-1, 1314c 1363, 1372-75, 1377, 1378; sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421, unless otherwise noted.

b. Section 724.70 is amended by revising paragraph (m) to read as follows:

§ 724.70 Transfer of fire-cured, dark air-cured, and Virginia sun-cured tobacco allotments by lease, sale, or by owner under section 318 of the Act.

(m) Tobacco allotment subject to an approved Conservation Reserve Program contract. Allotments which are subject to an approved Conservation Reserve Program contract shall not be eligible for sale during the term of the contract.

PART 725—[AMENDED]

1. In Part 725:

a. The authority citation for Part 725 continues to read as follows:

Authority: Secs. 301, 313, 314, 314A, 316B, 317, 363, 372-375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 96 Stat. 215, 210, 79 Stat. 66, as amended 52 Stat. 63, as amended, 65-66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314, 1314-1, 1314b-2, 1314c 1363, 1372-75, 1377, 1378; sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421, unless otherwise noted.

b. Section 725.72 is amended by revising paragraphs (d)(5)(i) and (d)(5)(vi) to read as follows:

§ 725.72 Transfer of tobacco marketing quotas by lease or by sale.

* * * * *

(d) * * *

(5) * * *

(i) *Previous purchasers and/or reallocated quota.* If the farm marketing quota includes quota that was bought, and/or reallocated from the quota which has been forfeited and the purchase and/or reallocation became effective during the current year or in the four preceding years; however, this provision shall not be applicable if:

(A) (1) The quota being sold was purchased in such period, if forfeiture of such quota is required by § 725.74, and the amount of quota being transferred does not exceed the amount of quota for which forfeiture otherwise is required in accordance with the provisions of § 725.74; or

(2) The county ASC committee, with the concurrence of a representative of the State ASC committee, determines that the failure to approve the sale would cause an undue hardship on the seller and:

(B) The sale is in connection with the settlement of an estate which includes the farm for which the quota was established;

(C) The owner of the quota is experiencing financial distress to the extent that current year financing is unlikely;

(D) The owner of the quota is disabled due to health reasons to the extent that such person can no longer continue to share in the risk of production of the purchased and/or reallocated quota; or

(E) The owner of the quota is sharing in the risk of production as an investing producer and loses resources necessary to produce the crop due to reasons beyond such owner's control such as the loss of a tenant or share cropper and a replacement can not be obtained.

* * * * *

(vi) *Tobacco allotment and quota subject to an approved Conservation Reserve Program contract.* If the allotment and quota is subject to an approved Conservation Reserve Program contract.

PART 726—[AMENDED]

1. In Part 726:

a. The authority citation for Part 726 continues to read as follows:

Authority: Secs. 301, 313, 314, 314A, 316B, 317, 363, 372-375, 377, 378, 52 Stat. 38, as amended; 47, as amended, 48, as amended, 96 Stat. 215, 210, 79 Stat. 66, as amended, 52 Stat. 63, as amended, 65-66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314, 1314-1, 1314b-2, 1314c 1363, 1372-75, 1377, 1378; sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421, unless otherwise noted.

b. Section 726.68 is amended by revising paragraph (d)(5)(i) and removing paragraphs (d)(5)(vi) and (vii) to read as follows:

§ 726.68 Transfer of tobacco marketing quotas by lease, by sale or by the owner.

* * * * *

(d) * * *

(5) * * *

(i) *Forfeiture otherwise required.* Unless forfeiture of the quota otherwise would be required in: accordance with § 726.69. However, this provision may be waived if:

(A) The quota was purchased and/or reallocated to the farm effective for the current year or in the four preceding years; and

(B) The county ASC committee, with the concurrence of a representative of the State ASC committee, determines that the failure to permit the sale of the quota, to the extent otherwise permitted by paragraph (d)(5) of this section, would cause an undue hardship on the seller and:

(1) The sale is in connection with the settlement of an estate which includes the farm for which the quota was established;

(2) The owner of the quota is experiencing financial distress to the extent that current year financing is unlikely;

(3) The owner of the quota is disabled due to health reasons to the extent that such person can no longer continue to share in the risk of production of the purchased and/or reallocated quota; or

(4) The owner of the quota is sharing in the risk of production as an investing producer and loses resources necessary to produce the crop due to reasons beyond such owner's control such as the loss of a tenant or sharecropper and a replacement can not be obtained.

* * * * *

Signed in Washington, DC, on March 21, 1988.

Milton Hertz,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 88-6652 Filed 4-15-88; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 389

[Docket No. RM86-14-001; Order No. 483-A]

Revisions to the Purchased Gas Adjustment Regulations

Issued April 12, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order on rehearing; notice of OMB control numbers.

SUMMARY: The Federal Energy Regulatory Commission (Commission), issued a final rule (Order No. 483, 52 FR 43854 (Nov. 17, 1987)) on November 10, 1987, in Docket No. RM86-14-000, amending its regulations governing the procedures by which a natural gas pipeline company passes through the cost of purchased gas to its jurisdictional customers. The Commission issued an order granting rehearing of Order No. 483 in part, denying rehearing in part and clarifying the final rule on March 2, 1988 (Order No. 483-A, 53 FR 7495 (Mar. 9, 1988)). The Office of Management and Budget has approved the information collection requirements in Order No. 483-A.

EFFECTIVE DATE: April 8, 1988.

FOR FURTHER INFORMATION CONTACT: Sandra S. Vincent, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501-3520 (1982) and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320 (1987), require that OMB approve certain information collection requirements imposed by agency rules. On April 4, 1988, OMB approved the information collection requirements of 18 CFR Part 154 as amended by Order No. 483-A under Control Numbers 1902-0070 and 1902-0152. Therefore, Order No. 483-A is effective on April 8, 1988. No amendment to the Table of OMB Control Numbers in 18 CFR 389.101(b) is required.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 88-8420 Filed 4-15-88; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 389

[Docket No. RM87-16-000; Order No. 490]

Abandonment of Sales and Purchases of Natural Gas Under Expired, Terminated, or Modified Contracts

Issued April 12, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.**ACTION:** Final rule; notice of OMB control numbers.

SUMMARY: The Federal Energy Regulatory Commission (Commission), issued a final rule (Order No. 490, 53 FR 4121 (Feb. 12, 1988)) on February 5, 1988, in Docket No. RN87-16-000, amending its regulations to provide for abandonment of certain sales and purchases under the Natural Gas Act by both sellers and purchasers where the underlying contract term has expired, or the contract has been terminated or modified with respect to the sales obligations by mutual agreement of the parties. The Office of Management and Budget has approved the information collection requirements in Order No. 490.

EFFECTIVE DATE: April 12, 1988.

FOR FURTHER INFORMATION CONTACT: Sandra S. Vincent, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501-3520 (1982) and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320 (1987), require that OMB approve certain information collection requirements imposed by agency rules. On April 4, 1988, OMB approved the information collection requirements of 18 CFR Part 157 as amended by Order No. 490 under existing Control Numbers 1902-0051, 1902-0052, and 1902-0055. Therefore, Order No. 490 is effective on April 12, 1988.

List of Subjects in 18 CFR Part 389

Reporting and recordkeeping requirements.

Accordingly, Part 389, Chapter I, Title 18, *Code of Federal Regulations* is amended as set forth below.

Lois D. Cashell,
Acting Secretary.

PART 389—OMB CONTROL NUMBERS FOR COMMISSION INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 389 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982).

§ 389.101 [Amended]

2. The table of OMB Control Numbers in § 389.101(b) is amended by deleting "0060" in the OMB control number column that corresponds to "157.21" in the section column and inserting in its place "0051, 0060."

[FR Doc. 88-8421 Filed 4-15-88; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1**

[T.D. 8195]

Income Taxes; Investment Credit for Movie and Television Films**AGENCY:** Internal Revenue Service, Treasury.**ACTION:** Final regulations.

SUMMARY: This document contains final regulations relating to the investment credit for movie and television films and tapes. Changes to the applicable law were made by the Tax Reform Act of 1976. The regulations revise the definition of a qualified film and affect taxpayers that own movie and television films or tapes which they place in service.

DATES: The regulations are effective for taxable years beginning after December 31, 1974.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T). Telephone 202-566-3297 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On June 3, 1982, the *Federal Register* published proposed amendments (47 FR 24142) under section 48(k) of the Internal Revenue Code of 1954. Section 48(k) was added to the Code by the Tax Reform Act of 1976 to provide for an investment credit under section 38 for qualified films and tapes. Section 48(k) (1)(B) provides that "the term 'qualified film' means any motion picture film or video tape created primarily for use as public entertainment * * * [but] does not include any film or tape the market for which is primarily topical or otherwise essentially transitory in nature."

Pursuant to the existing regulations under section 48(k), the subject matter of the film or tape determines whether the market for that film or tape is topical or

transitory. The proposed regulations proposed to amend § 1.48-8(a)(3) to provide additional specificity as to the definition of a film that has a transitory market. The proposed regulations stated that a market for a film is essentially transitory if, in the normal operation of the particular market for which the film is produced, films are generally shown once. By example, the proposed regulations provided that the market for serialized daytime dramas is essentially transitory in nature because films or tapes produced for that market usually are shown once. A number of comments were received, and a public hearing was held on October 14, 1982. After consideration of all comments, the Internal Revenue Service has promulgated these final regulations, which withdraw the proposed amendments relating to the definition of topical or transitory films and tapes. In addition, these final regulations amend the existing regulations under section 48(k) to remove the reference to game shows and variety shows as examples of topical or transitory films and tapes. As a result, the determination of whether or not a film or tape of such a game or variety show is topical or transitory will be made on a case-by-case basis.

These regulations do not reflect the repeal (with certain specified exceptions) of the regular investment credit by section 211 of the Tax Reform Act of 1986.

Special Analyses

Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 does not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis is not required.

Drafting Information

The principal author of these regulations was David R. Haglund of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing

the regulations, on matters of both substance and style.

List of Subjects in 26 CFR 1.0-1 through 1.58-8

Income taxes, Tax liability, Tax rates, Credits.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

Income Tax Regulations

Paragraph 1. The authority for Part 1 continues to read in part as follows.

Authority: 26 U.S.C. 7805. * * *

Par. 2. Section 1.48-8 is amended by revising paragraph (a)(3)(iii) to read as follows:

§ 1.48-8 Motion picture and television films and tapes.

(a) *Entitlement to investment credit.*
* * *

(3) *Qualified film.* * * *

(iii) *Topical or transitory films and tapes.* The term "qualified film" does not include any film or tape the market for which is primarily topical or is otherwise essentially transitory in nature. A film or tape is topical or essentially transitory in the nature if it primarily deals with events and personalities of current interest at the time the film or tape is placed in service. It does not matter that a film or tape which is topical or essentially transitory in nature may be shown in subsequent years or is actually shown in subsequent years. Topical or transitory films or tapes include news shows such as the evening news and news specials relating to current affairs, interview shows such as "The Tonight Show" or "Meet the Press", award shows, and shows consisting of sporting events. Topical or transitory films and tapes do not include dramatic shows (including dramatized recreations of recent events) or situation comedy shows which present entertainers as characters in a dramatization.

* * *
Lawrence B. Gibbs,
Commissioner of Internal Revenue.

Approved: April 4, 1988.

O. Donaldson Chapoton,
Assistant Secretary of the Treasury.
[FR Doc. 88-8837 Filed 4-15-88; 8:45 am]
BILLING CODE 4830-01-M

26 CFR Part 1

[T.D. 8196]

Consolidated Return Regulations; Deferral of Gain or Loss

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains temporary and final regulations that amend §§ 1.1502-13, 1.1502-14, 1.1502-13T and add new § 1.1502-14T to the consolidated return regulations. The temporary and final regulations supplement the existing regulations by providing rules relating to complete liquidations of subsidiaries that are taxable to the distributing corporation. The text of the temporary and final regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the proposed rules section of this issue of the Federal Register.

EFFECTIVE DATE: These regulations are effective upon publication and apply to consolidated income tax returns for which the due date (without extensions) is after April 14, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia W. Pellervo of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T (Telephone 202-566-3458, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document adds new temporary regulations § 1.1502-14T to Part 1 of Title 26 of the Code of Federal Regulations and makes conforming amendments to §§ 1.1502-13T, 1.1502-13 and 1.1502-14. The temporary regulations added by this document will remain in effect until superseded by later temporary or final regulations relating to these matters.

Explanation of Provision

Under § 1.1502-14(c)(2) of the consolidated return regulations, any gain recognized by the distributing corporation on a complete liquidation is accounted for as if the distributing and distributee member corporations filed separate returns. Because a distribution in complete liquidation of a member of a group is not a "deferred intercompany transaction" (see § 1.1502-13(a)) and is not otherwise treated as such (see §§ 1.1502-14(c)(1) and (2)), any gain or

loss recognized by the distributing corporation in a transaction described § 1.1502-14(c)(2) is taken into account in the taxable year in which the transaction occurs.

Under Subchapter C of the Internal Revenue Code of 1986 and the consolidated return regulations, the Internal Revenue Service is unaware of any circumstance in which gain or loss recognized by the distributing corporation in a complete liquidation should not be deferred in the same manner as is provided for other distributions described in § 1.1502-14(a) and (b). See also H.R. Rep. No. 100-495, 100th Cong., 1st Sess. 969 (1987). Accordingly, temporary regulation § 1.1504-14T is added, and related temporary regulation § 1.1502-13T is amended, to provided for the deferral of any gain or loss recognized by the distributing corporation on any complete liquidation to the same extent that deferral is provided for gain recognized with respect to a nonliquidating distribution under section 311. The temporary regulations under new § 1.1502-14T, and the amended related regulations under § 1.1502-13T, generally apply to distributions in complete liquidation of a corporation that occur during a taxable year for which the due date (without extensions) for the filing of the income tax return is after April 14, 1988.

Special Analyses

A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, the temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6). The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Drafting Information

The principal author these temporary regulations is Patricia W. Pellervo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, other personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR 1.1501-1 through 1.1564-1

Income taxes, Controlled group of corporations, Consolidated returns.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1986

Paragraph 1. The authority citation for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805; * * * §§ 1.1502-13, 1.1502-13T, 1.1502-14, and 1.1502-14T also issued under 26 U.S.C. 1502.

Par. 2. Section 1.1502-13 is amended as follows:

1. A new paragraph (c)(7) is added to read as set forth below.
2. A new paragraph (f)(2)(iii) is added to read as set forth below.

§ 1.1502-13 Intercompany transactions.

(c) * * *

(7) *Cross reference to temporary regulations.* For rules relating to inheritance of deferred gain or loss in the case of acquisitions in taxable years for which the due date (without extensions) of the income tax return is after April 14, 1988, see § 1.1502-13T (c).

(f) * * *

(2) * * *

(iii) See § 1.1502-13T (f) for a modification of an exception to paragraph (f)(1)(iii) of this section.

Par. 3. Paragraphs (c) and (f) of § 1.1502-13T are added to read as follows:

§ 1.1502-13T Temporary regulations for certain intercompany transactions.

(a)—(b) [Reserved]

(c) *Deferral of gain or loss on intercompany transactions—(1) Inheritance of deferred gain or loss.* If the assets of the selling member are acquired by one or more other members in an acquisition to which section 381(a) applies, or pursuant to a distribution in a complete liquidation not described in section 332(b), the member acquiring the greatest portion of the assets (measured by fair market value) of the selling member shall be subject to the provisions of § 1.1502-13(d), (e), and (f) with respect to the entire remaining balance of the deferred gain or loss. If two or more members acquire the same portion (which is greater than that acquired by any other members), the common parent shall select which such member shall be subject to the provisions of § 1.1502-13(d), (e), and (f).

For purposes of this section and § 1.1502-13, a member which inherits the balance of the deferred gain or loss under this subparagraph (1) shall be treated as the selling member.

(2) *Effective date.* Paragraph (c)(1) of this section applies, and § 1.1502-13(c)(6) does not apply, to acquisitions of assets by one or more members from another member in taxable years for which the due date (without extensions) of the income tax return is after April 14, 1988. In the case of a transaction to which this paragraph (c) applies, a reference in this part to § 1.1502-13 (c) is treated as including a reference to this paragraph (c).

(d)—(e) [Reserved]

(f) *Restoration of deferred gain or loss on dispositions, etc.—(1) Exception to general rule of § 1.1502-13(f)(1)(iii).* Section 1.1502-13(f)(1)(iii) shall not apply in a case where the selling member or the member which owns the property, as the case may be, ceases to be a member of the group by reason of an acquisition to which section 381(a) applies, or pursuant to a distribution in a complete liquidation not described in section 332(b), and the acquiring corporation is a member.

(2) *Effective date.* Paragraph (f)(1) of this section applies, and § 1.1502-13(f)(2)(ii)(a) does not apply, when the selling member or the member which owns the property ceases to be a member of the group in a taxable year for which the due date (without extensions) of the income tax return is after April 14, 1988. In the case of a transaction to which this paragraph (f) applies, a reference in this part to § 1.1502-13(f) is treated as including a reference to this paragraph (f).

(g)—(j) [Reserved]

Par. 4. § 1.1502-14 is amended by adding a new paragraph (c)(3) to read as follows:

§ 1.1502-14 Stock, bonds, and other obligations of members.

(c) * * *

(3) *Cross-reference to temporary regulations.* For distributions in taxable years for which the due date (without extensions) of the income tax return is after April 14, 1988, see § 1.1502-14T.

Par. 5. There is added immediately after § 1.1502-14 a new § 1.1502-14T to read as follows:

§ 1.1502-14T Treatment of distributing corporation (temporary).

(a) *Deferral of gain or loss.* To the

extent gain or loss is recognized to the distributing corporation on a distribution described in § 1.1502-14 (a) or (b) (including any amount which is treated as gain under sections 311, 336, 341(f)(2), 453B, 1245(a)(1) or 1250(a)(1)), such gain or loss shall be deferred by the distributing corporation. Such deferred gain or loss shall be taken into account by the distributing corporation at the time and in the manner specified in § 1.1502-13 (d), (e), and (f), as if such distributing corporation were a "selling member" and the distributee were a "purchasing member."

(b) *Effective date.* Paragraph (a) of this section applies, and § 1.1502-14(c) does not apply, to distributions described in § 1.1502-14 (a) or (b) that occur in taxable years for which the due date (without extensions) of the income tax return is after April 14, 1988. In the case of a transaction to which this section applies, a reference in this part to § 1.1502-14(c) is treated as including a reference to this section.

The provisions contained in this Treasury Decision are needed to immediately amend the consolidated return regulations in response to amendments made by the section 10223 of the Revenue Act of 1987. It is therefore found impracticable and contrary to the public interest to issue this Treasury Decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: April 12, 1988.

O. Donaldson Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 88-8411 Filed 4-14-88; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD7 88-07]

Regulated Navigation Area; Tampa Bay, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule, revocation.

SUMMARY: This Amendment revokes the regulations for the Regulated Navigation Area; Tampa Bay, FL, because the 43 foot channel dredging project was

completed and accepted by the U.S. Army Corps of Engineers on 18 November 1985. The completion of this project no longer requires vessel movement control associated with blasting and other restrictive dredging operations.

EFFECTIVE DATE: This rule is effective on April 4, 1988.

FOR FURTHER INFORMATION CONTACT: LTJG Michelle M. Lauzon; TEL: (305) 536-5621.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this rule are LT M. E. MAES, project officer, and LCDR S. T. FUGER, JR., project attorney.

This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a dredging operation that has been completed. Consequently, this action is considered to be non-major under Executive Order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbor, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

In consideration of the foregoing, Part 165 of Title 33 Code of Federal Regulations, is amended as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

§ 165.702 [Removed]

2. Section 165.702 is removed.

Dated: April 4, 1988.

H.B. Thorsen,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 88-8399 Filed 4-15-88; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-3366-7]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

AGENCY: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of three sites from the National Priorities List (NPL). The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended.

EFFECTIVE DATE: April 18, 1988.

FOR FURTHER INFORMATION CONTACT: Allen Dotson, State Requirements Section, State and Local Coordination Branch, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Phone (202) 382-5755.

SUPPLEMENTARY INFORMATION: The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund) financed remedial action. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.66(c)(8) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL.

The three sites EPA deletes from the NPL are:

1. Middletown Road Dump, Annapolis, Maryland;
2. Harris (Farley Street), Houston, Texas;
3. Mountain View Mobile Home Estates, Globe, Arizona.

An explanation of the criteria for deleting sites for the NPL was presented in section II of the September 3, 1987 Notice of Intent to Delete (50 FR 33446). A description of each of the three sites, and how each meets the criteria for deletion was presented in section IV of that notice.

The closing date for comments on the Notice of Intent to Delete was October

5, 1987. No comments were received concerning Middletown Road Dump.

In the only comment submitted on the Harris (Farley Street) site, Dow Chemical Company stated that action taken at the site had been effective, and that the site should be deleted from the NPL.

EPA received only one comment concerning the Mountain View Mobile Home Estates site. The U.S. Public Interest Research Group opposed deletion of the site, contending that the remedy is inadequate with regard to long-term protectiveness. EPA disagrees with this assertion. The remedy has been demonstrated to be protective of public health and the environment. Arizona has concurred in the recommendation to delete this site. EPA and the State have entered into a twenty-year Operation and Maintenance agreement which may be renegotiated upon expiration. In addition, ownership of the property comprising the site has been transferred to the State of Arizona, and permanent land-use restrictions have been written into the property title. Moreover, deletion of the site from the NPL in no way precludes eligibility of the site for subsequent Fund-financed actions.

List of Subjects in 40 CFR Part 300

Hazardous waste.

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows.

Authority: Section 105, Pub. L. 96-510, 94 Stat. 2764, 42 U.S.C. 9605 and sec. 311(c)(2), Pub. L. 92-500 as amended, 86 Stat. 865, 33 U.S.C. 1321(c)(2); E.O. 12316, 46 FR 42237; E.O. 11735, 38 FR 21243.

Appendix B—[Amended]

2. The NPL Part 300; Appendix B is amended as follows:

- In Group 14 remove:
Middletown Road Dump, Annapolis, Maryland
- In Group 11 remove:
Harris (Farley Street), Houston, Texas
- In Group 2 remove:
Mountain View Mobile Home Estates, Globe, Arizona.

The NPL will reflect these deletions in the next final update.

Dated: April 7, 1988.

Jack W. McGraw,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 88-8405 Filed 4-15-88; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Health Care Financing Administration
42 CFR Parts 435 and 436**

(BERC-514-CN)

Medicaid Program; Payments to Institutions; Correction**AGENCY:** Health Care Financing Administration (HCFA), HHS.**ACTION:** Correction of final rule.

SUMMARY: This document corrects a technical error that appeared in the preamble to the final rule on Medicaid payments to institutions published in the Federal Register on February 8, 1988 at 53 FR 3586.

FOR FURTHER INFORMATION CONTACT: Marinos Svoulos, (301) 966-4452.

SUPPLEMENTARY INFORMATION: In FR Doc. 88-2480, on page 3594, under "D. Impact on Small Entities," the discussion of program savings in the last 3 lines of the second column and line 1 of the third column immediately under the table are inconsistent with the table on that page. The savings figures presented in the table are correct and should be used in lieu of the figures in that portion of the preamble discussion.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: April 12, 1988.

James F. Trickett,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 88-8413 Filed 4-15-88; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY**44 CFR Part 205**

(Docket No. 205F)

Disaster Assistance; Community Disaster Loans**AGENCY:** Federal Emergency Management Agency.**ACTION:** Final rule.

SUMMARY: This Subpart F provides FEMA policy and guidance concerning the Community Disaster Loan program under section 414 of the Disaster Relief Act of 1974, Pub. L. 93-288, as amended. FEMA has determined that changes should be made to upgrade and clarify the regulations.

EFFECTIVE DATE: May 18, 1988.

FOR FURTHER INFORMATION CONTACT:

Gene Morath, Office of Disaster Assistance Programs, Federal Emergency Management Agency, Room 714, 500 C Street, SW., Washington, DC 20472, Telephone (202) 646-3683.

SUPPLEMENTARY INFORMATION: On April 28, 1987, FEMA published a proposed rule in the Federal Register (52 FR 15348), with a 60 day comment period, proposing changes in the Community Disaster Loan program designed to improve the program and clarify the regulation. The changes were the result of a program review based on over 14 years experience in administering the loan program authorized under Section 414 of the Disaster Relief Act of 1974, Pub. L. 93-288. A total of five comments were received. Four were from States and one was from the Territory of Guam. There was overall concurrence with the proposed rule, with the exception of one proposed change. Specific comments received are discussed below.

The Territory of Guam questioned whether, in view of its special status as a "state" without local governments but with municipal taxing authority, it was eligible for a community disaster loan. An earlier FEMA determination held that Guam is considered a local government for the purpose of applying for a disaster loan.

One State suggested that the loan program be administered through the Regional Director/Federal Coordinating Officer/Disaster Recovery Manager, the same as other Federal disaster assistance. The existing regulation provides that loan applications and applications for loan cancellation must be submitted through the Governor's Authorized Representative and the FEMA Regional Director, to the FEMA Associate Director. FEMA encourages participation at both the State and Regional level, but has retained approval authority at the national level in view of the limited financial resources available to the Regional Director, and to ensure uniformity and consistency in making loans and granting loan cancellations. Also, FEMA has utilized the Treasury Financial Communications System (TFCS) electronic funds transfer for disbursing loan funds directly to local governments, rather than using the Letter of Credit with the State, in order to expedite scheduled disbursements to meet the local government's immediate funding requirements. The regulation at 44 CFR 205.92(a) is being clarified to emphasize that local government correspondence concerning the loan must be submitted to Headquarters, FEMA, through the Governor's

Authorized Representative and the FEMA Regional Director.

The balance of the comments received expressed State concerns over FEMA's proposal to make it mandatory for a State to co-sign the promissory note, or otherwise, for the local government to pledge collateral security for the loan, commenting that the State may not be legally able to participate and that the local government may not have a source of collateral available. While FEMA understands these concerns, it has been FEMA's experience that, in view of the cancellation feature, local governments have not always addressed the loan in a fiscally responsible manner, and have been reluctant, and in some cases refused, repeatedly, to repay the uncanceled principal and related accrued interest after the regulatory loan cancellation and appeal process had been exhausted. It has also been FEMA's experience that, in such cases, the State concerned, in view of its close relationship with the borrower, tends to support the position of the local government and adopt a passive attitude towards Federal debt collection efforts. Since State and local governments are exempt from the provision of the Debt Collection Act of 1982, Pub. L. 97-365, as amended, FEMA's only ultimate recourse is litigation. After further consideration of the State's views and FEMA's legitimate program needs, FEMA has determined that it will require States to co-sign the promissory note. However, in view of the State's concerns, if the State cannot legally co-sign the promissory note, FEMA does not consider it an unreasonable requirement for a local government to pledge collateral security against the note as is required in other Federal loan programs. The regulation at 44 CFR 205.94(d)(2) is being revised to modify the language in the proposed rule accordingly.

Based on the foregoing consideration of the comments received and the changes discussed in the proposed rule, FEMA is revising 44 CFR Part 205, Subpart F, summarized as follows. The final rule (1) Extends, in § 205.91(e), the basic term of the promissory note from three to five years to preclude the need for processing routine time extensions for compiling future year financial reports and preparing submissions to FEMA, (2) expands § 205.92(a) to emphasize that local governments must submit all loan correspondence to the FEMA Associate Director through the State and the Regional Director, (3) expands § 205.92(b) to encourage States to take appropriate pre-disaster action to resolve any State impediment which

precludes a local government from incurring the increased indebtedness associated with obtaining a loan. (4) clarifies § 205.94(a)(1) to provide that a local government, when applying for a loan, as a result of having suffered a substantial loss of tax and other revenue as a result of a major disaster, is not required to first seek credit elsewhere, since under such circumstances, the requirement would be inconsistent with the basic intent of the disaster relief legislation, but the applicant would be required to first seek credit elsewhere if a subsequent application is submitted under § 205.97(c). (5) requires, in § 205.94(d)(2), that the State must co-sign the promissory note, but in those cases in which the State cannot legally co-sign the note, requires that the local government must pledge acceptable collateral security against the note. (6) retains, in § 205.96(c)(1)(iv), the requirement that annual audit reports of the local governments accounting records must be submitted when applying for loan cancellation. (7) adds a new provision in § 205.97(c) which provides for executing a new loan agreement and promissory note for an extended period, beyond the current ten year maximum, to enable local governments to develop realistic repayment plans and schedules and repay the indebtedness over an extended period of time, but requires that an applicant must first seek credit elsewhere pursuant to OMB Circular A-70, and (8) expands existing §§ 205.94, 205.95, 205.96, and 205.97, respectively, to clarify the specific financial information required to accompany a loan application, to require the submission of routine annual financial reports during the term of the loan, to expand the information required to accompany applications for loan cancellation, and to show the method used to compute accrued interest on loan disbursements.

Environmental Considerations

FEMA regulations at 44 CFR Part 10, Environmental Considerations, which implement the National Environmental Policy Act (NEPA) identify Community Disaster Loans as subject to a categorical exclusion from NEPA. See 44 CFR 10.8(c)(2)(vii)(G). In addition, 44 CFR 10.8(c)(2)(i) states that the preparation of regulations related to an action which is a categorical exclusion is also a categorical exclusion. Thus, the preparation of an environmental assessment for the issuance of these regulations is not required.

Executive Order 12291, Federal Regulations

This rule is not a "major rule" within the context of Executive Order 12291. It will not have an annual effect on the economy of \$100 million or more.

The rule will not have a significant economic impact on small entities, within the meaning of 5 U.S.C. 601 *et seq.* (the Regulatory Flexibility Act). Our experience over the past 10 years indicates that less than 0.1 of one percent of all applicants for public assistance request Community Disaster Loans. Therefore, no regulatory analysis will be prepared. The information collection requirement contained in this rule has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has been assigned OMB control numbers 3067-0026 and 3067-0034.

List of Subjects in 44 CFR Part 205

Disaster assistance, Grants programs, Housing and community development.

PART 205—[AMENDED]

1. The authority citation for Part 205 continues to read, in part, as follows:

Authority: 42 U.S.C. 5201; Reorganization Plan No. 3 of 1978, E.O. 12148.

2. Part 205, Subpart F is revised to read as follows:

Subpart F—Community Disaster Loans

Sec.	
205.90	Purpose.
205.91	Loan program.
205.92	Responsibilities.
205.93	Eligibility criteria.
205.94	Loan application.
205.95	Loan administration.
205.96	Loan cancellation.
205.97	Loan repayment.

Subpart F—Community Disaster Loans

§ 205.90 Purpose.

This subpart provides policies and procedures for local governments and State and Federal officials concerning the Community Disaster Loan program under section 414 of the Act.

§ 205.91 Loan program.

(a) *General.* The Associate Director, State and Local Programs and Support (the Associate Director) may make a Community Disaster Loan to any local government which has suffered a substantial loss of tax and other revenues as a result of a major disaster or emergency and which demonstrates a need for Federal financial assistance in order to perform its governmental functions.

(b) *Amount of loan.* The amount of the loan is based on need, not to exceed 25 percent of the operating budget of the local government for the fiscal year in which the disaster occurs. The term "fiscal year" as used in this subpart means the local government's fiscal year.

(c) *Interest rate.* The interest rate is the rate determined by the Secretary of the Treasury in effect on the date that the Promissory Note is executed. This Treasury rate takes into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity adjusted to the nearest 1/8 percent. The interest rate used shall be the Treasury rate for 5 year maturities in effect for the month the Promissory Note is executed by the Associate Director.

(d) *Time limitation.* The Associate Director may approve a loan in either the fiscal year in which the disaster occurred or the fiscal year immediately following that year. Only one loan may be approved under section 414(a) for any local government as the result of a single disaster.

(e) *Term of loan.* The term of the loan is 5 years, unless otherwise extended by the Associate Director. The Associate Director may consider requests for an extensions of loans based on the local government's financial condition. The total term of any loan under section 414(a) normally may not exceed 10 years from the date the Promissory Note was executed. However, when extenuating circumstances exist and the Community Disaster Loan recipient demonstrates an inability to repay the loan within the initial 10 years, but agrees to repay such loan over an extended period of time, additional time may be provided for loan repayment. See § 205.97(c) of this part.

(f) *Use of loan funds.* The local government shall use the loaned funds to carry on existing local government functions of a municipal operation character or to expand such functions to meet disaster-related needs. The funds shall not be used to finance capital improvements nor the repair or restoration of damaged public facilities. Neither the loan nor any cancelled portion of the loans may be used as the non-Federal share of any Federal program, including those under the Act.

(g) *Cancellation.* The Associate Director shall cancel repayment of all or part of a Community Disaster Loan to the extent that he/she determines that revenues of the local government during the three fiscal years following the disaster are insufficient to meet the

operating budget of that local government because of disaster-related revenue losses and additional unreimbursed disaster-related municipal operating expenses.

(h) Any community disaster loans including cancellations made under this subpart shall not reduce or otherwise affect any commitments, grants, or other assistance under the Act or these regulations.

§ 205.92 Responsibilities.

(a) The local government shall submit the financial information required by FEMA in the application for a Community Disaster Loan and in the application for loan cancellation, if submitted, comply with the assurances on the application, the terms and conditions of the Promissory Note, and these regulations. The local government shall send all loan application, loan administration, loan cancellation, and loan settlement correspondence through the Governor's Authorized Representative and the FEMA Regional Office to the FEMA Associate Director.

(b) The Governor's Authorized Representative shall certify on the loan application that the local government can legally assume the proposed indebtedness and that any proceeds will be used and accounted for in compliance with the FEMA-State Agreement for the major disaster or emergency. States are encouraged to take appropriate pre-disaster action to resolve any existing State impediments which would preclude a local government from incurring the increased indebtedness associated with a loan in order to avoid protracted delays in processing loan application requests in major disasters or emergencies.

(c) The Regional Director or designee shall review each loan application or loan cancellation request received from a local government to ensure that it contains the required documents and transmit the application to the Associate Director. He/she may submit appropriate recommendations to the Associate Director.

(d) The Associate Director, or a designee, shall execute a Promissory Note with the local government, and the Office of Disaster Assistance Programs in Headquarters, FEMA, shall administer the loan until repayment or cancellation is completed and the Promissory Note is discharged.

(e) The Associate Director or designee shall approve or disapprove each loan request, taking into consideration the information provided in the local government's request and the recommendations of the Governor's Authorized Representative and the

Regional Director. The Associate Director or designee shall approve or disapprove a request for loan cancellation in accordance with the criteria for cancellation in these regulations.

(f) The Comptroller shall establish and maintain a financial account for each outstanding loan and disburse funds against the Promissory Note.

§ 205.93 Eligibility criteria.

(a) *Local government.* (1) The local government must be located within the area designated by the Associate Director as eligible for assistance under a major disaster or emergency declaration. In addition, State law must not prohibit the local government from incurring the indebtedness resulting from a Federal loan.

(2) Factors considered by FEMA in determining the eligibility of a local government for a Community Disaster Loan include the loss of tax and other revenues as result of a major disaster or emergency, a demonstrated need for financial assistance in order to perform its governmental functions, the maintenance of an annual operating budget, and the responsibility to provide essential municipal operating services to the community. Eligibility for other assistance under the Act does not, by itself, establish entitlement to such a loan.

(b) *Loan eligibility.*—(1) *General.* To be eligible, the local government must show that it may suffer or has suffered a substantial loss of tax and other revenues as a result of a major disaster or emergency and must demonstrate a need for financial assistance in order to perform its governmental functions. Loan eligibility is based on the financial condition of the local government and a review of financial information and supporting justification accompanying the application.

(2) Substantial loss of tax and other revenues. The fiscal year of the disaster or the succeeding fiscal year is the base period for determining whether a local government may suffer or has suffered a substantial loss of revenue. Guidelines used in determining whether a local government has or may suffer a substantial loss of tax and other revenue include the following disaster-related factors:

(i) Whether the disaster caused a large enough reduction in cash receipts from normal revenue sources, excluding borrowing, which affects significantly and adversely the level and/or categories of essential municipal services provided prior to the disaster.

(ii) Whether the disaster caused a revenue loss of over 5 percent of total

revenue estimated for the fiscal year in which the disaster occurred or for the succeeding fiscal year.

(3) *Demonstrated need for financial assistance.* The local government must demonstrate a need for financial assistance in order to perform its governmental functions. The guidelines used in making this determination include the following:

(i) Whether there is sufficient funds to meet current fiscal year operating requirement;

(ii) Whether there is availability of cash or other liquid assets from the prior fiscal year;

(iii) Current financial condition considering projected expenditures for governmental services and availability of other financial resources;

(iv) Ability to obtain financial assistance or needed revenue from State and other Federal agencies for direct program expenditures;

(v) Debt ratio (relationship of annual receipts to debt service);

(vi) Ability to obtain financial assistance or needed revenue from State and other Federal agencies for direct program expenditures;

(vii) Displacement of revenue-producing business due to property destruction;

(viii) Necessity to reduce or eliminate essential municipal services; and

(ix) Danger of municipal insolvency.

§ 205.94 Loan application.

(a) *Application.* (1) The local government shall submit an application for a Community Disaster Loan through the Governor's Authorized Representative. The loan must be justified on the basis of need and shall be based on the actual and projected expenses, as a result of the disaster, for the fiscal year in which the disaster occurred and for the three succeeding fiscal years. The loan application shall be prepared by the affected local government and be approved by the Governor's Authorized Representative. FEMA has determined that a local government, in applying for a loan as a result of having suffered a substantial loss of tax and other revenue as a result of a major disaster, is not required to first seek credit elsewhere. (See § 205.97(c))

(2) The State exercises administrative authority over the local government's application. The State's review should include a determination that the applicant is legally qualified, under State law, to assume the proposed debt, and may include an overall review for accuracy for the submission. The Governor's Authorized Representative

may request the Regional Director to waive the requirement for a State review if an otherwise eligible applicant is not subject to State administration authority and the State cannot legally participate in the loan application process.

(b) *Financial requirements.* (1) The loan application shall be developed from financial information contained in the local government's annual operating budget (§ 105.94(b)(2) of this part) and shall include a Summary of Revenue Loss and Unreimbursed Disaster-Related Expenses, a Statement of the Applicant's Operating Results—Cash Position, a Debt History, Tax Assessment Data, Financial Projections, Other Information, a Certification, and the Assurances listed on the application.

(i) Copies of the local government's financial reports (Revenue and Expense and Balance Sheet) for the three fiscal years immediately prior to the fiscal year of the disaster and the applicant's most recent financial statement must accompany the application. The local government's financial reports to be submitted are those annual (or interim) consolidated and/or individual official annual financial presentations for the General Fund and all other funds maintained by the local government.

(ii) Each application for a Community Disaster Loan must also include:

(A) A statement by the local government identifying each fund (i.e. General Fund, etc.) which is included as its Annual Operating Budget, and

(B) A copy of the pertinent State statutes, ordinance, or regulations which prescribe the local government's system of budgeting, accounting and financial reporting, including a description of each fund account.

(2) *Operating budget.* For loan application purposes, the operating budget is that document or documents approved by an appropriating body, which contains an estimate of proposed expenditures, other than capital outlays for fixed assets for a stated period of time, and the proposed means of financing the expenditures. For loan cancellation purposes, FEMA interprets the term "operating budget" to mean actual revenues and expenditures of the local government as published in the official financial statements of the local government.

(3) *Operating budget increases.* Budget increases due to increases in the level of, or additions to, municipal services not rendered at the of the disaster or not directly related to the disaster shall be identified.

(4) *Revenue and assessment information.* the applicant shall provide information concerning its method of tax

assessment including assessment dates and the dates payments are due. Tax revenues assessed but not collected, or other revenues which the local government chooses to forgive, stay, or otherwise not exercise the right to collect, are not a legitimate revenue loss for purposes of evaluating the loan application.

(5) *Estimated disaster-related expense.* Unreimbursed disaster-related expenses of a municipal operation character should be estimated. These are discussed in § 205.96(b) of this part.

(c) *Federal review.* (1) The Associate Director or designee shall approve a community disaster loan to the extent it is determined that the local government has suffered a substantial loss of tax and other revenues and demonstrates a need for financial assistance to perform its governmental function as the result of the disaster.

(2) *Resubmission of application.* If a loan application is disapproved, in whole or in part, by the Associate Director because of inadequacy of information, a revised application may be resubmitted by the local government within sixty days of the date of the disapproval. Decision by the Associate Director on the resubmission is final.

(d) *Community Disaster Loan.* (1) The loan shall not exceed the lesser of:

(i) The amount of projected revenue loss plus the projected unreimbursed disaster-related expenses of a municipal operating character for the fiscal year of the major disaster and the subsequent three fiscal years or

(ii) 25 percent of the local government's annual operating budget for the fiscal year in which the disaster occurred.

(2) *Promissory note.* (i) Upon approval of the loan by the Associate Director or designee, he or she, or a designated Loan Officer will execute a Promissory Note with the applicant. The Note must be co-signed by the State (See § 205.94(d)(2)(ii)). The applicant should indicate its funding requirements on the Schedule of Loan Increments on the note.

(ii) If the State cannot legally so-sign the promissory note, the local government must pledge collateral security, acceptable to the Associate Director, to cover the principal amount of the note. The pledge should be in the form of a resolution by the local governing body identifying the collateral security.

(Approved by the Office of Management and Budget under control number 3067-0034)

§ 205.95 Loan administration.

(a) *Funding.* (1) FEMA will disburse funds to the local government when

requested, generally in accordance with the Schedule of Loan Increments in the Promissory Note. As funds are disbursed, interest will accrue against each disbursement.

(2) When each incremental disbursement is requested, the local government shall submit a copy of its most recent financial report (if not submitted previously) for consideration by FEMA in determining whether the level and frequency of periodic payments continue to be justified. The local government shall also provide the latest available data on anticipated and actual tax and other revenue collections. Desired adjustments in the disbursement schedule shall be submitted in writing at least 10 days prior to the proposed disbursement date in order to ensure timely receipt of the funds. A sinking fund should be established to amortize the debt.

(b) *Financial management.* (1) Each local government with an approved Community Disaster Loan shall establish necessary accounting records, consistent with local government's financial management system, to account for loan funds received and disbursed and to provide an audit trail.

(2) FEMA auditors, State auditors, the Governor's Authorized Representative, the Regional Director, the Associate Director, and the Comptroller General of the United States or their duly authorized representatives shall for the purpose of audits and examination have access to any books, documents, papers, and records that pertain to Federal funds, equipments, and supplies received under these regulations.

(c) *Loan servicing.* (1) The applicant annually shall submit to FEMA copies of its annual financial reports (operating statements, balance sheets, etc.) for the fiscal year of the major disaster, and for each of the three subsequent fiscal years.

(2) The Headquarters, FEMA Office of Disaster Assistance Programs, will review the loan periodically. The purpose of the reevaluation is to determine whether projected revenue losses, disaster-related expenses, operating budgets, and other factors have changed sufficiently to warrant adjustment of the scheduled disbursement of the loan proceeds.

(3) The Headquarters, FEMA Office of Disaster Assistance Programs, shall provide each loan recipient with a loan status report on a quarterly basis. The recipient will notify FEMA of any changes of the responsible municipal official who executed the Promissory Note.

(d) *Inactive loans.* If no funds have been disbursed from the Treasury, and if the local government does not anticipate a need for such funds, the note may be cancelled at any time upon a written request through the State and Regional Office to FEMA. However, since only one loan may be approved, cancellation precludes submission of a second loan application request by the same local government for the same disaster.

§ 205.96 Loan cancellation.

(a) *Policies.* (1) FEMA shall cancel repayment of all or any part of a Community Disaster Loan to the extent that the Associate Director determines that revenues of the local government during the full three fiscal year period following the disaster are insufficient, as a result of the disaster, to meet the operating budget of the local government, including additional unreimbursed disaster-related expenses for a municipal operating character. For loan cancellation purposes, FEMA interprets that term "operating budget" to mean actual revenues and expenditures of the local government as published in the official financial statements of the local government.

(2) If the tax and other revenues rates or the tax assessment valuation of property which was not damaged or destroyed by the disaster is reduced during the three fiscal years subsequent to the major disaster, the tax and other revenue rates and tax assessment valuation factors applicable to such property in effect at the time of the major disaster of computing revenues received. This may result in decreasing the potential for loan cancellations.

(3) If the local government's fiscal year is changed during the "full three year period following the disaster" the actual period will be modified so that the required financial data submitted covers an inclusive 36-month period.

(4) If the local government transfers funds from its operating funds accounts to its capital funds account, utilizes operating funds for other than routine maintenance purposes, or significantly increases expenditures not disaster related, except increase due to inflation, the annual operating budget or operating statement expenditures will be reduced accordingly for purposes of evaluating any request for loan cancellation.

(5) It is not the purpose of this loan program to underwrite pre-disaster budget or actual deficits of the local government. Consequently, such deficits carried forward will reduce any amounts otherwise eligible for loan cancellation.

(b) *Disaster-related expenses of a municipal operation character.* (1) For

purpose of this loan, unreimbursed expenses of a municipal operating character are those incurred for general government purposes, such as police and fire protection, trash collection, collection of revenues, maintenance of public facilities, flood and other hazard insurance, and other expenses normally budgeted for the general fund, as defined by the Municipal Finance Officers Association.

(2) Disaster-related expenses do not include expenditures associated with debt service, any major repairs, rebuilding, replacement or reconstruction of public facilities or other capital projects, intragovernmental services, special assessments, and trust and agency fund operations. Disaster expenses which are eligible for reimbursement under project applications or other Federal programs are not eligible for loan cancellation.

(3) Each applicant shall maintain records including documentation necessary to identify expenditures for unreimbursed disaster related expenses. Examples of such expenses include but are not limited to:

(i) Interest paid on money borrowed to pay amounts FEMA does not advance toward completion of approved Project Applications.

(ii) Unreimbursed costs to local governments for providing usable sites with utilities for mobile homes used to meet disaster temporary housing requirements.

(iii) Unreimbursed costs required for police and fire protection and other community services for mobile home parks established as the result of or for use following a disaster.

(iv) The cost to the applicant of flood insurance required under Pub. L. 93-234 and other hazard insurance required under section 314, Pub. L. 93-288, as a condition of Federal disaster assistance for the disaster under which the loan is authorized.

(4) The following expenses are not considered to be disaster-related for Community Disaster Loan purposes.

(i) The local government's share for assistance provided under the Act including flexible funding under section 402(f) of the Act.

(ii) Improvements related to the repair or restoration of disaster public facilities approved on Project Applications.

(iii) Otherwise eligible costs for which no Federal reimbursement is requested as a part of the applicant's disaster response commitment, or cost sharing as specified in the FEMA-State Agreement for the disaster.

(iv) Expenses incurred by the local government which are reimbursed on the applicant's project application.

(c) *Cancellation application.* A local government which has drawn loan funds from the Treasury may request cancellation of the principal and related interest by submitting an Application for Loan Cancellation through the Governor's Authorized Representative to the Regional Director prior to the expiration date of the loan.

(1) Financial information submitted with the application shall include the following:

(i) Annual Operating Budgets for the fiscal year of the disaster and the three subsequent fiscal years;

(ii) Annual Financial Reports (Revenue and Expense and Balance Sheet) for each of the above fiscal years. Such financial records must include copies of the local government's annual financial reports, including operating statements balance sheets and related consolidated and individual presentations for each fund account. In addition, the local government must include an explanatory statement when figures in the Application for Loan Cancellation form differ from those in the supporting financial reports.

(iii) The following additional information concerning annual real estate property taxes pertaining to the community for each of the above fiscal years:

(A) The market value of the tax base (dollars),

(B) The assessment ratio (percent),

(C) The assessed valuation (dollars),

(D) The tax levy rate (mils),

(E) Taxes levied and collected (dollars).

(iv) Audit reports for each of the above fiscal years certifying to the validity of the Operating Statements. The financial statements of the local government shall be examined in accordance with generally accepted auditing standards by independent certified public accountants. The report should not include recommendations concerning loan cancellation or repayment.

(v) Other financial information specified in the Application for Loan Cancellation.

(2) *Narrative justification.* The application may include a narrative presentation to amplify the financial material accompanying the application and to present any extenuating circumstances which the local government wants the Associate Director to consider in rendering a decision on the cancellation request.

(d) *Determination.* (1) If, based on a review of the Application for Loan Cancellation and FEMA audit, when determined necessary, the Associate

Director determines that all or part of the Community Disaster Loan funds should be cancelled, the principal amount which is cancelled will become a grant, and the related interest will be forgiven. The Associate Director's determination concerning loan cancellation will specify that any uncanceled principal and related interest must be repaid immediately and that, if immediate repayment will constitute a financial hardship, the local government must submit for FEMA review and approval, a repayment schedule for settling the indebtedness on timely basis. Such repayments must be made to the Treasurer of the United States and be sent to FEMA, Attention: Office of the Comptroller.

(2) A loan or cancellation of a loan does not reduce or affect other disaster-related grants or other disaster assistance. However, no cancellation may be made that would result in a duplication of benefits to the applicant.

(3) The uncanceled portion of the loan must be repaid in accordance with § 205.97 of this part.

(4) *Appeals.* If an Application for Loan Cancellation is disapproved, in whole or in part, by the Associate Director or designee, the local government may submit any additional information in support of the application within sixty days of the date of disapproval. The decision by the Associate Director or designee on the submission is final.

(Approval by the Office of Management and Budget under control number 3067-0026)

§ 205.97 Loan repayment.

(a) *Prepayments.* The local government may make prepayments against loan at any time without any prepayment penalty.

(b) *Repayment.* To the extent not otherwise cancelled, Community

Disaster Loan funds become due and payable in accordance with the terms and conditions of the promissory note. The note shall include the following provisions:

(1) The term of a loan made under this program is five years, unless extended by the Associate Director. Interest will accrue on outstanding cash from the actual date of its disbursement by the Treasury.

(2) The interest amount due will be computed separately for each Treasury disbursement as follows: $I = P \times R \times T$, where I = the amount of simple interest, P = the principal amount disbursed; R = the interest rate of the loan; and, T = the outstanding term in years from the date of disbursement to date of repayment, with periods less than one year computed on the basis of 365/year. If any portion of the loan is cancelled, the interest amount due will be computed on the remaining principal with the shortest outstanding term.

(3) Each payment made against the loan will be applied first to the interest computed to the date of the payment, and then to the principal. Prepayments of scheduled installments, or any portion thereof, may be made at any time and shall be applied to the installments last to become due under the loan and shall not affect the obligation of the borrower to pay the remaining installments.

(4) The Associate Director may defer payments of principal and interest until FEMA makes its final determination with respect to any Application for Loan Cancellation which the borrower may submit. However, interest will continue to accrue.

(5) Any costs incurred by the Federal Government in collecting the note shall be added to the unpaid balance of the loan, bear interest at the same rate as

the loan, and be immediately due without demand.

(6) In the event of default on this note by the borrower, the FEMA claims collection officer will take action to recover the outstanding principal plus related interest under Federal Debt Collection authorities, including administrative offset against other Federal funds due the borrower and/or referral to the Department of Justice for judicial enforcement and collection.

(c) In unusual circumstances involving financial hardship, the local government may request an additional period of time to repay the indebtedness. Such request may be approved by the Associate Director subject to the following conditions:

(1) The local government must submit documented evidence that it has applied for the same credit elsewhere and that such credit is not available at a rate equivalent to the current Treasury rate.

(2) The principal amount shall be the original uncanceled principal plus related interest.

(3) The interest rate shall be the Treasury rate in effect at the time the new Promissory Note is executed but in no case less than the original interest rate.

(4) The term of the new Promissory Note shall be for the settlement period requested by the local government but not greater than ten years from the date the new note is executed.

Date: April 8, 1988.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 88-8015 Filed 4-15-88; 8:45 am]

BILLING CODE 6718-01-M

Proposed Rules

Federal Register

Vol. 53, No. 74

Monday, April 18, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 916

Nectarines Grown in the State of California

Amendments to the Size Requirements and Clarification of the Maturity Regulations for Nectarines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on several proposed changes to the size and maturity regulations established for California nectarines. The proposed increase in variety-specific size requirements for numerous nectarine varieties and the proposed increase in minimum size requirements for non-listed varieties are designed to make nectarines more marketable and to give retailers and consumers a better product. This proposal also would change the coverage of the size requirements by adding six varieties of nectarines and by removing four from the variety-specific size list. It would, in addition, clarify the current maturity requirements by specifying the current maturity requirements in greater detail and would simplify the maturity determination system currently used by the nectarine industry.

DATE: Comments must be received by May 3, 1988.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085-S, Washington, DC 20090-6456. Three copies of the written material shall be submitted, and they will be made available for public inspection in the office of the Docket Clerk during regular business hours. The comments should reference the date and

page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT:

Jerry N. Brown, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone 202-475-5464.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 916 [7 CFR Part 916], regulating the handling of nectarines grown in California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 650 handlers of plums, peaches, and nectarines subject to regulation under marketing order [7 CFR Parts 916 and 917], and there are approximately 2,030 producers of these commodities in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having gross annual revenues for the last three years of less than \$500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than \$3,500,000. The majority of handlers and producers of such fruit may be classified as small entities.

Shipments of California nectarines are regulated by grade, maturity, and size under Nectarine Regulation 14 [7 CFR 916.356, as amended and published in the Federal Register on April 29, 1987, 52 FR 15487, and as corrected on May 8,

1987, 52 FR 17504]. Most of the proposed changes to § 916.356 were unanimously recommended by the Nectarine Administrative Committee, which works with the Department in administering the marketing order for California nectarines. This proposed rule is based upon the committee's recommendation, information submitted by the committee and other available information. The proposed changes reflect crop and market conditions experienced last season and expected conditions in 1988.

Inspected shipments of California nectarines for the 1987 season totalled 16,863,000 packages and they were primarily sold in the fresh market. In 1987, the production value of California nectarines was about \$65,545,000. Although this proposed rule would impose requirements on the handling of nectarines, exemptions from the inspection and certification requirements would continue. These exemptions include provisions for the shipment of minimum quantities of the fruit.

Variety-specific size regulations for nectarines are implemented when the nectarine variety is produced in commercially significant quantities; i.e., shipments in excess of 10,000 packages during a season. When varieties are no longer produced in significant quantities (less than 5,000 packages during the previous season), they are removed from the variety-specific size requirements, but are subject to minimum size requirements established for non-listed varieties. The quantities used in making these determinations are the same as those used in prior seasons. These requirements are specified in paragraph (a) of § 916.356.

To implement the committee's size recommendations, paragraph (a) of § 916.356 would be revised to increase the variety-specific size requirements for 75 varieties of nectarines and to decrease the size requirements for four varieties by removing them from the more restrictive variety-specific size requirements and by subjecting them to the less restrictive minimum size requirements established for non-listed varieties.

This proposal would decrease the number of nectarines allowed in a 16-pound representative sample and require the nectarines to be packed in larger sized packs. For example, the minimum size requirement for Early

Diamond nectarines would be increased from the smaller size "108" to the larger size "96." Also, two new size designations would be added to § 916.356(a), and one size designation would be removed from the minimum size requirements prescribed in that paragraph. Specifically, size "84" (not more than 84 nectarines in a No. 22D standard lug box) would be replaced by two new size designations, size "88" and "80."

Also, under this proposal size "108" nectarines when packed in a loose-filled container would be subject only to a 16-pound sample test instead of both the 16-pound test and the tray pack test as is currently required. Size "108" nectarines would only be subject to the tray pack requirement specifying that such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of standard pack, not more than 108 nectarines in the lug box. This recognizes that the Aurelio Grand, Maybelle, Mayfire, and Royal Delight variety nectarines subject to the "108" size requirements normally size well enough to meet the tray pack requirements, but sometimes do not develop enough soluble solids to meet the 16-pound weight test.

This proposal would also change the requirements for non-listed varieties of nectarines. Currently, the requirements for non-listed varieties of nectarines specify a minimum size "108" to be shipped during January 1 through May 31 of each fiscal period, size "96" to be shipped during June 1 through June 30 of each fiscal period, and size "84" to be shipped during July 1 through December 31 of each fiscal period. This proposal would increase the requirements for nectarines to size "96" during January 1 through May 31 of each fiscal period, size "88" during June 1 through June 30 of each fiscal period, and size "80" during July 1 through December 31 of each fiscal period.

In addition, the maximum number of nectarines allowed in a representative 16-pound sample of "108" size nectarines would be reduced from 95 to 92. For example, the minimum size requirement for Royal Delight nectarines would continue to be a size "108"; however, the maximum number of Royal Delight nectarines allowed in a representative 16-pound sample would be 92 and they would not be subject to the tray pack test (not more than 108 nectarines in a No. 22D standard lug box) when packed in loose-filled containers.

The committee is of the view that the higher size requirements are necessary

to provide consumers and retailers with larger nectarines. Industry bulletins for the past seasons indicate that small-sized fruit has been rejected by consumers. The industry has been gradually adjusting its size requirements to accommodate the preferences of consumers and the trade to maintain the industry's good quality image.

According to the committee, the proposed changes are necessary to remove from the market those sizes of fruit which are not being well received by consumers. These actions are intended to foster repeat purchase and maintain consumer satisfaction. Early season purchases of small-sized nectarines have a negative impact on total nectarine sales because consumers do not make repeat purchases after being dissatisfied with their original purchases. According to the committee, increased size requirements are needed to make nectarines more marketable and are essential for the consumer satisfaction needed to maintain current markets and to build new markets.

The elimination of small-sized nectarines would respond to consumer demands for larger fruit and benefit the consumer and the entire nectarine industry. Because of the cultural practices (e.g., proper thinning) growers can use to increase nectarine size and yields, no shortage is expected as a result of the recommended size changes, but rather more healthy market conditions for California nectarines.

Subsequent to the committee's meeting on December 9, 1987, on this proposal, the Department has received letters from interested persons opposed to the size increases. One person contends that the proposal is intended for volume control rather than quality assurance and that adequate research to justify the size changes was not performed. Another person has requested that the size requirements for the May Glo nectarine variety remain the same as last season. The person stated that his firm was not aware of the committee's recommendation to increase the size requirements for the May Glo nectarine variety until early March and that because the Coachella Valley is such an early growing area, it is too late for his firm to improve the size, with thinning and pruning, this season.

In addition, the proposal would establish variety-specific size requirements for nectarine varieties now produced in commercially significant quantities and remove varieties no longer produced in significant quantities from variety-specific size requirements. Specifically, the Kism Grand, September Red, Sun Diamond, and 181-119

varieties of nectarines would be added to the variety-specific requirements in paragraph (a)(5) of § 916.356; May Diamond would be added to the variety-specific requirements in paragraph (a)(4) of § 916.356; and Mayfire would be added to the variety-specific requirements in paragraph (a)(2) of § 916.356. The Armking, Gee Red, Richards Grand, and Star Grand varieties of nectarines would be removed from the variety-specific size requirements. Shipments of the new varieties that would be added to the variety-specific size regulations exceeded 10,000 packages during the 1987 season. Shipments of the varieties that would be removed from the variety-specific size regulations fell below 5,000 packages during the 1987 season.

Further, the proposal would revise paragraph (a) of § 916.356 to clarify the nectarine maturity requirements and simplify the maturity determination system currently used by the nectarine industry. Among other things, the revision of paragraph (a) would specify that no handler can ship nectarines unless they are at least "well-matured," as defined in paragraph (b) and would specify the role of Federal or Federal-State inspectors in making "well-matured" determinations.

Currently the first sentence of paragraph (a) states that: "No handler shall ship:" and the first sentence of paragraph (a)(1) states that: "Any lot or package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade: *Provided*, that maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service."

It is proposed that the first sentence of paragraph (a)(1) be revised to read: "Any lot or package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade, except that the nectarines shall be 'well-matured,' rather than 'mature,' but not over-ripe or shriveled." This change would clarify the fact that all nectarines marketed under this program must be "well-matured," rather than "mature" as defined in the U.S. grade standards for nectarines. Since May 16, 1980 [45 FR 32309; May 16, 1980] nectarines have been required to be "well-matured" rather than "mature," and this requirement has been implemented by the Federal-State Inspection Service since that time.

In addition to specifying that nectarines must be "well-matured," the proposal would define "well-matured"

as a condition distinctly more advanced than "mature." According to the U.S. grade standards, a nectarine is considered mature when it has reached the stage of growth which will insure a proper completion of the ripening process. This is a minimum standard of maturity which was in effect before the more recent advances in handling and distribution techniques and does not preclude inspecting to a higher degree of maturity. In 1979 the committee reported that "the maturity of nectarines at destination was rather severely criticized." The "well-matured" requirement has resulted in more consumer acceptance and expansion of markets for California nectarines.

The proposal would also simplify the current maturity determination procedures. To ascertain compliance with the "well-matured" standard with regard to each variety of nectarines, various tests are used. Since 1980, the Federal-State Inspection Service, based on its expertise, has been primarily responsible for determining which specific test or tests should be used for each variety of nectarines and which test level (e.g., particular color chip) is appropriate for each variety. When the Federal-State Inspection Service has sufficient experience with a variety to determine that a color chip test and a particular color chip should normally be appropriate for the entire production area for every year, it has advised the committee of that determination. The committee has then ratified that determination, publishing it in its annual bulletin. After such a determination for a particular variety has been published, variances during the season or permanent changes between seasons have been made by the committee or its Maturity Subcommittee. The committee and its staff have provided advice to the Federal-State Inspection Service in making its maturity determinations, and likewise the Federal-State Inspection Service and the committee staff have advised the committee and its Maturity Subcommittee in making variances and changes.

Over the years, these procedures have provided fair and equitable treatment to producers and handlers. The Federal-State Inspection Service is the recognized authority on matters relating to grading and inspection. The committee staff have backgrounds in inspection and packing and have a vast amount of concentrated hands-on experience with nectarines. The members of the committee are all growers of nectarines who are often also handlers. They are nominated by their peers in each production district. They

have practical business experience in the nectarine industry, as well as the confidence of their peers with regard to their expertise and integrity.

The current procedures have, however, at times created logistical problems, particularly with regard to variances during the season. Requests for variances require prompt consideration and action. Committee members are dispersed over a wide geographical area and have daily responsibilities with regard to their own businesses. While most committee members have been extremely giving of their time with regard to their variance duties, the demands of such duties have imposed a hardship on the members.

It is, therefore, proposed by the Department that the responsibility for variances during the season and changes between the seasons be given to the Federal or Federal-State Inspection Service.

This change would simplify the procedures by assigning all maturity determinations and the application of those determinations to one group. In making this proposal it is intended that the Federal or the Federal-State Inspection Service, while considering variances and changes, will seek the advice of the committee and its staff in order to draw upon their wealth of expertise. It is also intended that any changes and any variances would be applicable to all growers and handlers of the particular variety. Finally, it is intended that any changes and variances will be made at the supervisory level of the Federal or the Federal-State Inspection Service, rather than by the particular packinghouse inspector. This will ensure that these decisions are made by those who have the greatest background and expertise and who are in a position to be knowledgeable concerning current conditions throughout the entire production area. It is expected that this change in procedures would have very negligible substantive effect. The experience of the last eight seasons indicates that almost invariably there has been a concurrence of opinion regarding the proper decision among the Federal-State Inspection Service, the committee staff and the committee or Subcommittee.

Further, a table would be added to paragraph (a) of § 916.356 which would specify color chip guides which the Federal or the Federal-State Inspection Service intends to use beginning with the 1988 season for the specified varieties of nectarines. For these varieties, an aggregate area of not less than 90 percent of the fruit surface shall

meet the color guide established for the variety, and not less than 90 percent of any lot shall meet the color guide established for the variety.

The varieties listed in the table are those described above where the inspection service has sufficient experience to specify a color chip test and a particular color chip. The Federal or the Federal-State Inspection Service would have the authority to make variances from the guides in the table during the season for any variety to reflect changes in crop and weather conditions that would make the guide an inappropriate measure of "well-matured." For varieties not listed in the table, the Federal or Federal-State Inspection Service would use such tests as they deem appropriate. Single sets of the color chip guides used by the Federal or Federal-State Inspection Service may be obtained from the Nectarine Administrative Committee at: 701 Fulton Avenue, Sacramento, California 95865 or can be inspected at such location during regular business hours. The committee's telephone number is 916-483-9261.

There are no changes of color chips in the table from the list in the 1987 Nectarine Bulletin. However, an additional aggregate surface tolerance of 10 percent for the Tom Grand and 61-61 varieties of nectarines would be added to paragraph (a)(1)(i) of § 916.356. This is intended to help make maturity determinations for these varieties of nectarines more accurate. This proposed exception is the same as is currently in effect for the Fairlane variety of nectarines.

It is the Department's view that the proposed change to add several new varieties of nectarines now produced in commercially significant quantities to the variety-specific (named-variety) size requirements and to delete four varieties no longer produced in commercially significant quantities from those requirements would not be detrimental to small entities. These changes are expected to improve the quality of nectarines in the fresh market which would be beneficial in maintaining current markets and developing new ones. The proposed change to clarify the maturity requirements for nectarines is intended to foster and facilitate a greater understanding of these requirements within the nectarine industry and, as such, would not result in additional costs. The proposed changes to the well matured guides for the Tom Grand and 61-61 varieties of nectarines would relax requirements.

The committee is of the view that the higher size requirements are necessary

to provide consumers and retailers better sized nectarines. Industry bulletins from the past season indicate that consumers prefer larger sized well-matured fruit. The industry has been gradually adjusting its size requirements to accommodate the wishes of the consumers and the trade to maintain the industry's good quality image.

According to the committee, the proposed changes are necessary to remove from the market those sizes of fruit which are not being well received by consumers. These actions are intended to foster repeat purchases and maintain consumer satisfaction.

Based on the above, the Administrator of AMS has determined that the changes proposed above would not have a significant economic impact on a substantial number of small entities.

The committee's recommendation, other information, and all written comments timely received in response to this request for comments will be considered before a final determination is made on this proposal. Commenters are encouraged to submit the reasons in support of or in opposition to this proposed rule. Any pertinent data to support their views and comments should also be submitted.

A comment period of less than 30 days is deemed appropriate for this proposal. The harvest and shipment of the 1988 nectarine crop is expected to start April 25, 1988, and growers and handlers should be given as much notice as possible of any changes, if adopted to permit the industry to plan accordingly. Moreover, the Department already has received letters in opposition to the proposed nectarine size changes indicating the industry is aware of the committee's recommendation.

List of Subjects in 7 CFR Part 916

Marketing agreement and order, Nectarines, California.

For the reasons set forth in the preamble, 7 CFR Part 916 is proposed to be amended as follows:

PART 916—NECTARINES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 916 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 916.356 is revised to read as follows:

§ 916.356 Nectarine Regulation 14.

(a) No handler shall ship:

(1) Any lot or package or container of any variety of nectarines unless such

nectarines meet the requirements of U.S. No. 1 grade, except that the nectarines shall be "well-matured," rather than "mature," but not over-ripe or shriveled. Conformity with the well-matured requirement shall be determined by the Federal or Federal-State Inspection Service by the application of color guides or other tests as it deems proper for each variety: *Provided*, That nectarines 2 inches in diameter or smaller, shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle $\frac{3}{8}$ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle $\frac{1}{2}$ inch in diameter: *Provided further*, That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen.

(i) During the 1988 and subsequent seasons, the Federal or the Federal-State Inspection Service intends to use the maturity guides listed in Table I in making maturity determinations for the specified varieties. For these varieties, not less than 90 percent of any lot shall meet the color guide established for the variety, and an aggregate area of not less than 90 percent of the fruit surface shall meet the color guide established for the variety, except that for the Fairlane, Tom Grand, and 61-61 varieties of nectarines, not less than an aggregate area of 80 percent of the fruit surface shall meet the color guide established for the variety. For varieties not listed, the Federal or the Federal-State Inspection Service will use such tests as it deems proper. The Federal or the Federal-State Inspection Service has the authority to make variances for any variety from any guide or tests, including those in Table I, during the season to reflect changes in crop or weather conditions that would make the existent guide an inappropriate measure of "well-matured."

(2) Any package or container of Aurelio Grand, Maybelle, Mayfire, or Royal Delight variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the lug box; and

(ii) Such nectarines, when packed other than as specified in paragraph (a)(2)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 92 nectarines.

(3) Any package or container of Early Diamond, Mayfair, or May Glo variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the lug box; and

(ii) Such nectarines, when packed in any container, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 87 nectarines.

(4) Any package or container of Ama Lyn, Apache, Early May, Early May Grand, Mike Grand, Early Star, Grand Stan, June Glo, June Grand, May Grand, Pacific Star, Red Delight, Red June, Spring Grand, Star Brite, Sunfire, or May Diamond variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the lug box; and

(ii) Such nectarines, when packed in any container, except for the Apache variety of nectarines when packed in tray packs, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 78 nectarines.

(5) Any package or container of Autumn Delight, Autumn Grand, Bob Grand, Clinton-Strawberry, Early Sungrand, Fairlane, Fantasia, Firebrite, Flamekist, Flaming Red, Flavortop, Flavortop I, Gold King, Grand Diamond, Granderli, Hi-Red, Independence, July Red, Kent Grand, Kism Grand, Late Le Grand, Le Grand, Moon Grand, Niagara Grand, P-R Red, Red Diamond, Red Free, Red Grand, Regal Grand, Royal Giant, Ruby Grand, September Grand, September Red, Tasty Free, Tom Grand, Larry's Grand, Scarlet Red, Son Red, Spring Diamond, Spring Red, Late Tina Red, Red Jim, Summer Beaut, Sparkling Red, Star Bright, Summer Diamond, Summer Grand, Summer Red, Sun Diamond, Sun Grand, Sherri Red, Super Star, Rio Red, 61-61, or 181-119, variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 80 nectarines in the lug box; and

(ii) Such nectarines, when packed in any container are of a size that a 16-pound sample, representative of the

nectarines in the package or container, contains not more than 67 nectarines.

(6) During January 1 through 31, of each fiscal period, no handler shall handle any package or container of any variety of nectarines not specifically named in paragraphs (a) (2), (3), (4), or (5) of this section unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the lug box; and

(ii) Such nectarines, when packed in any container, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 87 nectarines.

(7) During June 1 through June 30, of each fiscal period, no handler shall handle any package or container of any variety of nectarines not specifically named in paragraphs (a) (2), (3), (4), or (5) of this section unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the lug box; and

(ii) Such nectarines, when packed in any container, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 78 nectarines.

(8) During July 1 through December 31, of each fiscal period, no handler shall handle any package or container of any variety of nectarines not specifically named in paragraphs (a) (2), (3), (4), or (5) of this section unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 80 nectarines in the lug box; and

(ii) Such nectarines, when packed in any container, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 67 nectarines.

TABLE I

Column A variety	Column B maturity guide	Column A variety	Column B maturity guide
Ama Lyn.....	G	Mike Grand.....	H
Ambrosia.....	G	Moon Grand.....	M
Apache.....	G	Niagara Grand.....	H
Apkarian.....	G	P-R Red.....	L
Armking.....	B	Red Diamond.....	M

TABLE I—Continued

Column A variety	Column B maturity guide	Column A variety	Column B maturity guide
Aurelio Grand.....	F	Red Delight.....	I
Autumn Delight.....	M	Red Free.....	L
Autumn Grand.....	L	Red Grand.....	H
Bob Grand.....	L	Red Jim.....	L
Clinton-Strawberry.....	H	Red June.....	G
Desert Dawn.....	G	Regal Grand.....	L
Early May.....	G	Richards Grand.....	L
Early May Grand.....	H	Rio Red.....	L
Early Star.....	G	Royal Delight.....	F
Early Sungrand.....	H	Royal Giant.....	I
Fairlane.....	M	Ruby Grand.....	J
Fantasia.....	L	Scarlet Red.....	K
Firebrite.....	H	September Grand.....	L
Flamekist.....	L	September Red.....	L
Flaming Red.....	K	Sherri Red.....	J
Flavortop.....	J	Son Red.....	L
Flavortop I.....	K	Sparkling June.....	M
Gee Red.....	H	Sparkling Red.....	L
Gold King.....	H	Spring Diamond.....	M
Grandelli.....	J	Spring Grand.....	G
Grand Stan.....	C	Spring Red.....	H
Hi-Red.....	J	Stan's Grand.....	C
Independence.....	H	Star Brite.....	J
July Red.....	H	Star Grand.....	H
June Glo.....	H	Summer Beaut.....	H
June Grand.....	G	Summer Diamond.....	M
Kent Grand.....	L	Summer Grand.....	L
Larry's Grand.....	M	Summer Red.....	L
Late Le Grand.....	L	Suntre.....	F
Late Tina Red.....	I	Sun Grand.....	G
Le Grand.....	H	Tasty Free.....	L
Maybelle.....	F	Tom Grand.....	L
Mayfair.....	C	Zee Gold.....	G
May Glo.....	H	61-61.....	J
May Grand.....	H	#91.....	G
Mayred.....	B		

NOTE.—Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above.

(b) *Definitions.* As used herein, "U.S. No. 1," "mature," and "standard pack" mean the same as defined in the United States Standards for Grades of Nectarines [7 CFR 51.3145 to 51.3160]; "No. 22D standard lug box" means the same as defined in Section 1380.19(17) of the "Regulations of the California Department of Food and Agriculture." "Well-matured" means a condition distinctly more advanced than "mature."

Dated: April 13, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 88-8431 Filed 4-15-88; 8:45 a]

BILLING CODE 3410-02-M

7 CFR Part 917

Fresh Pears, Plums, and Peaches Grown in the State of California; Size Requirements and Clarification of Maturity Regulations for Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on several proposed changes to the size and maturity regulations established for California peaches. The coverage of the variety-specific size requirements would be changed by removing two varieties, no longer produced in significant quantities, from the variety-specific size list. Also size requirements would be modified for varieties of peaches not subject to variety-specific size requirements which are shipped November 1 through July 2. This is intended to bring these requirements into conformity with those in effect for shipments during the July 3 through October 31 period. It would, in addition, clarify the current maturity requirements by specifying the current maturity requirements in greater detail and would simplify the maturity determination system currently used by the peach industry.

DATE: Comments must be received by May 3, 1988.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085-S, Washington, DC 20090-6456. Three copies of the written material shall be submitted, and they will be made available for public inspection in the office of the Docket Clerk during regular business hours. The comments should reference the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT:

Jerry N. Brown, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone 202-475-5464.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 917 [7 CFR Part 917], regulating the handling of fresh pears, plums, and peaches grown in California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has

been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 650 handlers of plums, peaches, and nectarines subject to regulation under marketing orders [7 CFR Parts 916 and 971], and there are approximately 2,030 producers of these commodities in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having gross annual revenues for the last three years of less than \$500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than \$3,500,000. The majority of handlers and producers of such fruit may be classified as small entities.

Shipments of California peaches are regulated by grade, maturity, and size under Peach Regulation 14 [7 CFR 917.459, as amended and published in the *Federal Register* on April 29, 1987, 52 FR 15488]. Most of the proposed changes to § 917.459 were recommended by the Peach Commodity Committee, which works with the Department in administering the marketing order for California peaches. This proposed rule is based upon the committee's recommendation, information submitted by the committee, and other available information.

Inspected shipments of California peaches for the 1987 season totaled 13,854,000 packages and they were primarily sold in the fresh market. In 1987, the production value of California freestone peaches (fresh and processed) and clingstone peaches was about \$68,252,000 and \$95,612,000, respectively. Although this proposed rule would impose requirements on the handling of peaches, exemptions from the inspection and certification requirements would continue. These exemptions include provisions for the shipment of minimum quantities of the fruit.

Variety-specific size regulations for peaches are implemented when the

peach variety is produced in commercially significant quantities; i.e., shipments in excess of 10,000 packages during a season. When varieties are no longer produced in significant quantities (less than 5,000 packages during the previous season), they are removed from the variety-specific size requirements, but are subject to minimum size requirements established for non-listed varieties. The quantities used in making these determinations are the same as those used in prior seasons. These requirements are specified in paragraphs (a), (b), and (c) of § 917.459.

To implement the peach committee's size recommendations, paragraph (a)(5) of § 917.459 would be revised to remove two varieties no longer produced in significant quantities from variety-specific size requirements. Specifically, the Summerset and Windsor varieties of peaches would be removed from the variety-specific size requirements in that paragraph. Shipments of the varieties that would be removed from the variety-specific size requirements fell below 5,000 packages during the 1987 season.

Paragraphs (b) and (c) of § 917.459 require all varieties of peaches not subject to the variety-specific size requirements to be subject to minimum size requirements. The total shipments of these peaches are significant enough to warrant coverage, even though shipments of the individual varieties of them do not exceed 10,000 packages. Paragraph (b) covers shipments of these varieties during the period November 1 through July 2, and paragraph (c) covers shipments during the period July 3 through October 31.

For shipments during the July 3 through October 31 period, paragraph (c) currently specifies minimum size requirements for peaches packed in No. 22D standard lug boxes, requirements for those peaches packed in No. 12B standard fruit (peach) boxes, and 16-pound representative sample count per pound requirements for peaches packed in other containers. Paragraph (b) specifies No. 22D standard lug box requirements and 16-pound representative sample count per pound requirements, but does not specify size requirements for fruit packed in No. 12B standard fruit (peach) boxes. To foster consistency of regulation throughout the year, the committee recommended that size requirements be added to paragraph (b) for peaches packed in No. 12B standard fruit (peach) boxes for shipment during the period November 1 through July 2. The peaches so packed would have to be of a size that would pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box. These are

the same requirements as specified in paragraph (c) for shipments during the July 3 through October 31 period. With the change, such peaches packed in No. 12B standard fruit (peach) boxes would no longer be subject to the 16-pound representative sample count per pound requirements, just the pack requirements.

Further, the proposal would revise paragraph (a) of § 917.459 to clarify the peach maturity requirements and simplify the maturity determination system currently used by the peach industry. Among other things, the revision of paragraph (a) would specify that no handler could ship peaches unless they are at least "well-matured," as defined paragraph (d) and would specify the role of Federal or Federal-State inspectors in making "well-matured" determinations.

Currently the first sentence of paragraph (a) states that: "No handler shall ship;" and the first sentence of paragraph (a)(1) states that: "Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade: *Provided*, That maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service."

It is proposed that the first sentence of paragraph (a)(1) be revised to read: "Any lot or package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade, except that the peaches shall be 'well-matured,' rather than 'mature,' but not over-ripe or shriveled." This change would clarify the fact that all peaches marketed under this program must be "well-matured," rather than "mature" as defined in the U.S. grade standards for peaches. Since May 16, 1980 [45 FR 32310; May 16, 1980] peaches have been required to be "well-matured" rather than "mature," and this requirement has been implemented by the Federal-State Inspection Service since that time.

In addition to specifying that peaches must be "well-matured," this proposal would define "well-matured" as a condition distinctly more advanced than "mature." According to the U.S. grade standards, a peach is considered mature when it has reached the stage of growth which will insure a proper completion of the ripening process. This is a minimum standard of maturity which was in effect before the more recent advances in handling and distribution techniques and does not preclude inspecting to a higher degree of maturity. In 1979 the committee reported that higher maturity

standards were necessary to satisfy trade demand, particularly in eastern markets. The "well-matured" requirement has resulted in more consumer acceptance and expansion of markets for California peaches.

The proposal would also simplify the current maturity determination procedures. To ascertain compliance with the "well-matured" standard with regard to each variety of peaches, various tests are used. Since 1980, the Federal-State Inspection Service, based on its expertise, has been primarily responsible for determining which specific test or tests should be used for each variety of peaches and which test level (e.g., particular color chip) is appropriate for each variety. When the Federal-State Inspection Service has sufficient experience with a variety to determine that a color chip test and a particular color chip should normally be appropriate for the entire production area for every year, it has advised the committee of that determination. The committee has then ratified that determination, publishing it in its annual bulletin. After such a determination for a particular variety has been published, variances during the season or permanent changes between seasons have been made by the committee or its Maturity Subcommittee. The committee and its staff have provided advice to the Federal-State Inspection Service in making its maturity determinations, and likewise the Federal-State Inspection Service and the committee staff have advised the committee and its Maturity Subcommittee in making variances and changes.

Over the years, these procedures have provided fair and equitable treatment to producers and handlers. The Federal-State Inspection Service is the recognized authority on matters relating to grading and inspection. The committee staff have backgrounds in inspection and packing and have a vast amount of concentrated hands-on experience with peaches. The members of the committee are all growers of peaches who are often also handlers. They are nominated by their peers in each production district. They have practical business experience in the peach industry, as well as the confidence of their peers with regard to their expertise and integrity.

The current procedures have, however, at times created logistical problems, particularly with regard to variances during the season. Requests for variances require prompt consideration and action. Committee members are dispersed over a wide geographical area and have daily

responsibilities with regard to their own businesses. While most committee members have been extremely giving of their time with regard to their variance duties, the demands of such duties have imposed a hardship on the members.

It is, therefore, proposed by the Department that the responsibility for variances during the season and changes between the seasons be given to the Federal or Federal-State Inspection Service. This change would simplify the procedures by assigning all maturity determinations and the application of those determinations to one group. In making this proposal it is intended that the Federal or the Federal-State Inspection Service, while considering variances and changes, will seek the advice of the committee and its staff in order to draw upon their wealth of expertise. It is also intended that any changes and any variances would be applicable to all growers and handlers of the particular variety. Finally, it is intended that any changes and variances will be made at the supervisory level of the Federal or the Federal-State Inspection Service, rather than by the particular packinghouse inspector. This will ensure that these decisions are made by those who have the greatest background and expertise and who are in a position to be knowledgeable concerning current conditions throughout the entire production area. It is expected that this change in procedure would have very negligible substantive effect. The experience of the last eight seasons indicates that almost invariably there has been a concurrence of opinion regarding the proper decision among the Federal-State Inspection Service, the committee staff and the committee or subcommittee.

Further, a table would be added to paragraph (a) of § 917.459 which would specify color chip guides which the Federal or the Federal-State Inspection Service intends to use beginning with the 1988 season for the specified varieties of peaches. For these varieties, an aggregate area of not less than 90 percent of the fruit surface shall meet the color guide established for the variety, and not less than 90 percent of any lot shall meet the color guide established for the variety.

The varieties listed in the table are those described above where the inspection service has sufficient experience to specify a color chip test and a particular color chip. The Federal or the Federal-State Inspection Service would have the authority to make variances from the guides in the table during the season for any variety to

reflect changes in crop and weather conditions that would make the guide an inappropriate measure of "well-matured." For varieties not listed in the table, the Federal or the Federal-State Inspection Service would use such tests as they deem appropriate. Single sets of the color chip guides used by the Federal or the Federal-State Inspection Service may be obtained from the Peach Commodity Committee at: 701 Fulton Avenue, Sacramento, California 95865 or can be inspected at such location during regular business hours. The committee's telephone number is 916-483-9261.

There is one change in the table from the list in the 1987 Peach Bulletin. The color guide for the Prima Fire peach variety would be changed from the "I" color guide to the "H" color guide. This is intended to help make the maturity determination for this peach variety more accurate. This proposed change is the same as was in effect for such peach variety at the end of last season.

It is the Department's view that the proposed changes deleting two varieties no longer produced in commercially significant quantities from variety-specific size requirements and changing size requirements for peaches chipped in No. 12B standard fruit (peach) boxes during the period November 1 through July 2 would not be detrimental to small entities. The proposed change to clarify the maturity requirements for peaches is intended to foster and facilitate a greater understanding of these requirements within the peach industry and, as such, would not result in additional costs. The proposed change to the well matured guide for the Prima Fire variety of peaches would make maturity determination more accurate.

Based on the above, the Administrator of AMS has determined that the changes proposed above would not have a significant economic impact on a substantial number of small entities.

The committee's recommendation, other information, and all written comments timely received in response to this request for comments will be considered before a final determination is made on this proposal. Commenters are encouraged to submit the reasons in support of or in opposition to this proposed rule. Any pertinent data to support their views and comments should also be submitted.

A comment period of less than 30 days is appropriate for this proposal. The harvest and shipment of the 1988 peach crop is expected to start April 15, 1988, and growers and handlers should be given as much notice as possible of any changes, if adopted to permit the industry to plan accordingly.

List of Subjects in 7 CFR Part 917

Marketing agreements and order,
Pears, Plums, Peaches, California.

For the reasons set forth in the preamble, 7 CFR Part 917 is proposed to be amended as follows:

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 917 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 917.459 is revised to read as follows:

§ 917.459 Peach Regulation 14.

(a) No handler shall ship:

(1) Any lot or package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade, except that the peaches shall be "well-matured," rather than "mature," but not over-ripe or shriveled. Conformity with the well-matured requirement shall be determined by the Federal or the Federal-State Inspection Service by the application of color guides or other tests as it deems proper for each variety.

(i) During the 1988 and subsequent seasons, the Federal or the Federal-State Inspection Service intends to use the maturity guides listed in Table I in making maturity determinations for the specified varieties. For these varieties, not less than 90 percent of any lot shall meet the color guide established for the variety, and an aggregate area of not less than 90 percent of the fruit surface shall meet the color guide established for the variety. For varieties not listed, the Federal or the Federal-State Inspection Service will use such tests as it deems proper. The Federal or the Federal-State Inspection Service has the authority to make variances for any variety from any guide or tests, including those in Table I, during the season to reflect changes in crop or weather conditions that would make the guide an inappropriate measure of "well-matured."

(2) Any package or container of Desertgold variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in paragraph (a)(2)(i) of this section are of a size that a 16-pound sample, representative of the peaches in the

package or container, contains not more than 96 peaches.

(3) Any package or container of any type of Morning Sun or Springgold variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 84 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in paragraph (a)(3)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 79 peaches.

(4) Any package or container of Babcock, Coronet, Early Coronet, Firecrest, First Lady, Flavorcrest, Flavor Red, Golden Crest, Golden Lady, Honey Red, June Crest, June Lady, Kern Sun, May Crest, May Lady, Merrill Gem, Merrill Gemfree, Ray Crest, Redhaven, Redtop, Regina, Royal May, Springcrest, Spring Lady, Willie Red, or 50–178 variety of peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in paragraph (a)(4)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 73 peaches.

(5) Any package or container of Angelus, August Sun, Autumn Crest, Autumn Gem, Autumn Lady, Belmont, Berenda Sun, Blum's Beauty, Cassie, Cal Red, Carnival, Early O'Henry, Elberta, Elegant Lady, Fairmont, Fairtime, Fay Elberta, Fayette, Fire Red, Flamecrest, Fortyniner, Franciscan, July Lady, July Sun, Kings Lady, Lacey, Mary Ann, O'Henry, Pacifica, Parade, Preuss Suncrest, Red Cal, Redglobe, Red Lady, Ryan's Sun, Scarlet Lady, Sparkle, Sprague Last Chance, Suncrest, Sun Lady, or Toreador variety of peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will

pack, in accordance with the requirements of standard pack, no more than 72 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in paragraphs (a)(5)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 64 peaches.

TABLE I

Column A variety	Column B maturity guide	Column A variety	Column B maturity guide
Angelus.....	I	Judy Elberta.....	C
Armgold.....	D	July Lady.....	G
August Sun.....	I	June Crest.....	G
Autumn Crest.....	I	June Lady.....	G
Autumn Gem.....	I	Kearney.....	I
Autumn Lady.....	H	Kern Sun.....	H
Babcock Type (ask supervising insp.).....		Kim Elberta.....	C
Bella Rosa.....	G	King's Lady.....	I
Belmont (Fairmont).....	I	Lacey.....	I
Berenda Sun.....	I	Mardigras.....	G
Blum's Beauty.....	G	May Crest.....	G
Bonjour.....	F	May Lady.....	G
Cardinal.....	G	Merrill Gem.....	G
Cal Red.....	I	Merrill Gemfree.....	G
Carnival.....	I	Morning Sun.....	D
Cassie.....	H	O'Henry.....	I
Coronet.....	E	Pacifica.....	G
Delp.....	C	Parade.....	I
Desertgold.....	B	Pat's Pride.....	D
Early Coronet.....	D	Preuss.....	F
Early Elberta.....	C	Suncrest.....	
Early Fairtime.....	I	Ray Crest.....	G
Early O'Henry.....	I	Red Cal.....	I
Early Royal.....	G	Redglobe.....	C
May.....		Redhaven.....	G
Early Top.....	G	Red Lady.....	G
Elberta.....	B	Redtop.....	G
Elegant Lady.....	M	Regina.....	G
Fairtime.....	G	Rio Oso Gem.....	I
Fay Elberta.....	C	Royal April.....	D
Fayette.....	I	Royal Gold.....	D
Fiesta.....	I	Royal May.....	G
Fire Red.....	I	Ryan's Sun.....	I
First Lady.....	D	Scarlet Lady.....	F
Firecrest.....	I	Sparkle.....	I
Flamecrest.....	I	Springcrest.....	G
Flavorcrest.....	G	Spring Lady.....	H
Flavor Red.....	G	Springgold.....	D
Fortyniner.....	F	Summersef.....	I
Franciscan.....	G	Suncrest.....	G
Golden Lady.....	F	Sun Lady.....	I
Halloween.....	I	Toreador.....	I
Honey Red.....	G	Treasure.....	F
JJK-1.....	G	Willie Red.....	G
Jody Gaye.....	F	Windsor.....	I
		Prima Fire.....	H

NOTE: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guide applicable to the varieties not listed above.

(b) During the period November 1 through July 2 of each fiscal period, no handler shall handle any package or container of any variety of peaches not specifically named in paragraphs (a)(2), (3), (4), or (5) of paragraph (a) unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(3) Such peaches in any container when packed other than as specified in paragraphs (b)(1) or (2) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(c) During July 3 through October 31 of each fiscal period, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), and (5) of paragraph (a) unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(3) Such peaches in any container when packed other than as specified in paragraphs (c)(1) or (2) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 73 peaches.

(d) As used herein, "U.S. No. 1," "mature," and "standard pack" mean the same as defined in the United States Standards for Grades of Peaches [7 CFR 51.1210 through 51.1223]; and "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" mean the same as defined in section 13.80.19(18) of the "Regulations of the California Department of Food and Agriculture." "Well-matured" means a condition distinctly more advanced than "mature."

Dated: April 13, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.
[FR Doc. 88-8432 Filed 4-15-88; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1900 and 1980

Farmers Home Administration Appeal Procedure

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations to: (1) Establish a national appeals staff to hear and review all appeals of FmHA adverse decisions; (2) remove references to State Directors and District Directors acting as hearing officers; (3) require appeal decisions within 45 days after receipt of an appellant's request in farmer program loan restructuring denials; (4) require a tape recording of the appeal hearing and provide for a transcript of the hearing when requested by the appellant; (5) provide for submission of independent appraisals for appeals involving farmer program debt restructuring and servicing actions; (6) allow the appellant to request the State Director and/or the Director of Appeal to review an appeal decision; (7) remove reference to an obsolete unfunded program; (8) require inclusion of the Equal Credit Opportunity Act Statement in all denial letters; (9) remove obsolete material and make other necessary clarifications and editorial changes. The need for this action is to implement the applicable provisions of the "Agriculture Credit Act of 1987" (Pub. L. 100-233). The major effect will be to establish an independent national appeals staff to hear and review formal appeals for FmHA and reduce the amount of time in which an appeal decision is rendered.

DATE: Comments must be received on or before May 18, 1988.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives and Forms Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: John Gleason, Director, Executive Secretariat Staff, Farmers Home Administration, USDA, Room 5406, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC 20250, telephone (202) 382-1642.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor, because there will not be an annual effect on the economy of \$100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G "Environmental Program." It is the determination of FmHA that this action, consisting only of changes in functions of Agency personnel, does not constitute a major Federal action significantly affecting the quality of human environment, and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Intergovernmental Consultation

This activity affects of FmHA financial assistance programs. The activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultations with State and local officials. Those FmHA financial assistance programs subject to intergovernmental consultation are delineated in Subpart J of 7 CFR Part 1940.

Programs Affected

These changes affect the following FmHA Programs as listed in the catalog of Federal Domestic Assistance:

- 10.404 Emergency Loans
- 10.405 Farm Labor Housing Loans and Grants
- 10.406 Farm Operating Loans
- 10.407 Farm Ownership Loans
- 10.410 Low Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Rental Housing Loans
- 10.416 Soil and Water Loans
- 10.417 Very Low-Income Housing Repair Loans and Grants
- 10.418 Water and Waste Disposal Systems for Rural Communities

- 10.419 Watershed Protection and Flood Prevention Loans
- 10.421 Indian Tribes and Tribal Corporation Loans
- 10.422 Business and Industrial Loans
- 10.423 Community Facility Loans
- 10.427 Rural Rental Assistance Payments
- 10.428 Economic Emergency Loans
- 10.433 Housing Preservation Grants
- 10.434 Nonprofit National Corporations Loan and Grant Program

Discussion of the Major Items of the Proposed Rule

1. The Agency proposes to amend Subpart B of Part 1900 to implement provisions of the "Agricultural Credit Act of 1987" (Pub. L. 100-233) which establishes a national appeals "division." The Act does not change the kinds of decisions made appealable by section 333B of the Consolidated Farm and Rural Development Act (CONACT), but rather requires the Farmers Home Administration to establish a new and independent organization to hear and decide those appeals. This proposed rule thus reorganizes the existing Subpart B to separate those decisional functions that will be the responsibility of the new appeals organization from those that will continue to be the responsibility of FmHA program personnel. It principally concerns these internal FmHA allocations of responsibility.

Within the FmHA hierarchy a Division reports to an Assistant Administrator which is 2 levels removed from the Office of the Administrator, and we do not believe that Congress used the term "division" with the intent of requiring that this new entity be established at that organizational level. In line with the purpose of the legislation, for visibility and prestige in the agency hierarchy, it is instead proposed that the appeals unit be called a "staff," and that the National Appeals Staff report directly to the Administrator. This would give the unit a position on a level with other organizational components reporting to the Administrator.

Hearing officers will have no duties other than those of a hearing officer and will report to the National Director of Appeals. Accordingly, references in the subpart to District Directors and State Directors as hearing officers have been deleted. The appellant will have the choice of selecting either the State Director or the National Director of Appeals to review a decision of a hearing officer. If an appellant elects review by the State Director, the decision of the State Director can be further reviewed by the National

Director of Appeals, upon request of the appellant.

All hearings will be tape recorded and a copy of the tape provided to the appellant at no cost. A transcript will be provided to the appellant at cost, upon request. Consideration was given to preparing a transcript of all appeal hearings, but it is proposed instead that transcripts be prepared only when requested by an appellant, since this method will be made less costly and will eliminate the delay that arises when waiting for a verbatim transcript to be prepared. Public Law 100-233 requires the hearing officer to provide a copy of the hearing record to the National Director of Appeals and the Secretary if the hearing officer's decision is appealed. We interpret this to be a ceremonial reference to the Secretary and will not require a separate copy of the hearing record to be sent to the Secretary.

Difficulties in scheduling hearings may arise that affect some or all of the parties involved. In those cases, the Area Supervisor may order use of a telephone conference call or calls to conduct a hearing.

FmHA is aware that the proposal to use conference calls to conduct hearings may be controversial, and is interested in receiving comments from the public on the practical advantages and disadvantages of this idea. FmHA is aware that some agencies and court systems have experimented with this idea, and have found it to be useful in some circumstances. FmHA thinks that telephone hearings may be helpful especially for members of the public who, like housing and other borrowers, must take a considerable amount of their time away from their affairs to attend a face-to-face hearing. The Area Supervisor will solicit and consider the views of all parties before using this authority, and not use it when any party shows a face-to-face hearing is necessary to resolve issues of credibility or for other good reasons.

Appeal decisions involving farmer program restructuring denials must be made within 45 days after receipt of an appellant's appeal request. Appeals involving farmer program loan restructuring may include a request by the appellant for an independent appraisal of any property securing the loan. The hearing officer will provide the appellant with a list of three independent appraisers selected by the County Supervisor for the appellant's county. The appellant will select one and bear the cost of the appraisal.

Revisions to this part remove references to forms FmHA 1924-25, "Notice of Intent to Take Adverse

Action," and FmHA 1924-26, "Borrower Acknowledgement of Notice of Intent to Take Adverse Action." Provisions in Pub. L. 100-233 require new notifications and servicing requirements for farmer program loans and these forms are no longer applicable.

Additional revisions to this part remove an obsolete reference to Economic Emergency loans and require the Equal Credit Opportunity Act (ECOA) Statement on denial letters to all applicants.

2. Although the appeal provisions of the Agricultural Credit Act of 1987 only affect CONACT applicants and borrowers, FmHA has administratively chosen to provide these appeal rights for all FmHA applicants and borrowers, because FmHA believes that review of adverse decisions by an independent staff will make it clear that appellant's rights are fully protected in all cases. In addition, it would be inconsistent with the intent of the Agricultural Credit Act of 1987 to provide FmHA applicants/borrowers with potentially conflicting appeal rights. For example, if the proposed appeal regulations only affected CONACT applicants/borrowers, a farmer program borrower with a rural housing and/or labor housing loan would be covered under two different sets of appeal regulations. Therefore, to ensure consistency between FmHA loan programs, and provide all FmHA applicants/borrowers with a fair and impartial review, the proposed appeal regulations will affect all FmHA loan programs. With respect to how this rulemaking action affects housing applicants/borrowers, section 534 of the Housing Act of 1949, as amended, provides that rules and regulations affecting housing programs must be published as a proposed rule with a sixty day comment period and be published in final form for at least 30 days *unless* the rule is published on an emergency basis. Due to the time constraints for publications imposed by the Agricultural Credit Act of 1987, and emergency nature of this regulation, a thirty day comment period pursuant to 42 U.S.C. 1480 will be utilized.

While FmHA intends to bring housing applicants and borrowers within the coverage of the new system as expeditiously as possible, it may not be feasible, on the date that the new system begins hearing farmer program and other FmHA administrative appeals, to give housing appeals to the National Appeals Staff. The large number of housing appeals, when combined with the anticipated workload generated by farmer program appeals, may create a workload too great for the

National Appeals Staff to process without undue delay for all appellants.

FmHA is closely monitoring this situation. If, at the time this rule is published in its final form, it appears that a delay in the transfer of housing appeals to the new system is required, FmHA will publish rules retaining the use of the present system for housing appeals and transferring them to the National Appeals Staff at a date that will be set out in the regulations.

3. On February 16, 1988, FmHA published a proposed rule in the *Federal Register* (53 FR 4414) with a comment period ending March 17, 1988. The purpose of that proposed rule was to amend Subpart B of Part 1900 to implement provisions of section 1313 of the Food Security Act of 1985 (Pub. L. 99-198) pertaining to the Business and Industrial (B & I) Loan Program. The intent of that proposed rule is to amend Subpart B of Part 1900 to include appeals of B & I loan decisions.

The changes proposed by this action do not negate or supercede the changes presented in the earlier proposed rule. This action is a result of additional changes necessary arising from separate legislative action. It is intended that all changes from both actions, with comments, will be consolidated into a single final rule.

4. On September 30, 1986, FmHA published an interim rule in the *Federal Register* (51 FR 34926) with a comment period ending October 30, 1986, regarding the Nonprofit National Corporations Loan and Grant Program, 7 CFR Part 1980, Subpart G. On July 8, 1987, FmHA published an amendment to that same interim rule in the *Federal Register* (52 FR 25586-25589) with a comment period ending August 7, 1987. The final rules have not yet been promulgated. To ensure consistency and fairness in the handling of FmHA appeals, an administrative decision was made to include appeals of all loan and grant programs under Subpart B of Part 1900. Accordingly, only Part 1980, Subpart G, § 1980.680 is affected by this proposed rule as it relates to appeals. The rest of both interim rules remains in effect.

List of Subjects

7 CFR Part 1900

Appeals, Credit, Loan programs—Housing and Community Development.

7 CFR Part 1980

Loan programs—Nonprofit Corporations, Grant programs—Nonprofit Corporations.

Therefore, as proposed, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1900—GENERAL

1. The authority citation for Part 1900 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. Subpart B of Part 1900 is revised to read as follows:

Subpart B—Adverse Decisions and Administrative Appeals

Sec.

- 1900.51 General.
- 1900.52 Definitions.
- 1900.53 Adverse action procedures.
- 1900.54 National Appeals Staff.
- 1900.55 Appealable and non-appealable decisions.
- 1900.56 Appeal request.
- 1900.57 Hearing rules.
- 1900.58 Review rules.
- 1900.59 Effect of appeal decision.
- 1900.60 Records.
- 1900.61–1900.100 [Reserved]
- Exhibit A—Guide to Conducting a Hearing.
- Exhibit B-1—Letter for Notifying Applicants and Borrowers of Adverse Decisions Where the Decision is Appealable.
- Exhibit B-2—Letter for Notifying Applicants and Borrowers of Adverse Decisions Where the Decision is Appealable.
- Exhibit B-3—Letter for Notifying Applicants and Borrowers of Unfavorable Decision Reached at the Pre-Decisional Meeting.
- Exhibit B-4—Appeals of Adverse Action.
- Exhibit B-5—Letter for Notifying Applicants and Borrowers of Adverse Decisions Where the Decision is Appealable.
- Exhibit C—Letter for Notifying Applicants and Borrowers of Adverse Decisions When Part or All of the Decision is not Appealable.
- Exhibit D—Hearing/Review Officers Designations.

Subpart B—Adverse Decisions and Administrative Appeals

§ 1900.51 General.

(a) This Subpart contains operating instructions to be used by the Farmers Home Administration ("FmHA") personnel to ensure that full and complete consideration is given to affected members of the public when certain adverse program administrative decisions are being made. It also sets out the authority and procedures of the National Appeals Staff, which gives administrative appeals and further review of these decisions. The National Appeals Staff is an organization within FmHA which is independent from FmHA State and local officials, and from all other agency officials making program administrative decisions. The FmHA official heading the National Appeals Staff, the Director of Appeals,

reports directly to the Administrator of FmHA.

(b) The provisions of this Subpart apply to program administrative decisions concerning all loans and grants made by FmHA. These include farmer program loans, housing loans (both single- and multi-family), community and business program loans, and all grant programs administered by FmHA.

(c) The provisions of this Subpart do not apply to any decisions made by FmHA other than those referred to in paragraph (b) of this section, nor to decisions made by organizations outside FmHA even when those decisions are used as a basis for decisions falling within paragraph (b) of this section. Examples of the first kind of decision are Freedom of Information Act decisions to release or deny the release of information sought by members of the public (appealable under 7 CFR Part 1), decisions to purchase or not to purchase goods and services from members of the public under the Federal contracting laws and regulations (which decisions are appealable to the Department's Board of Contract Appeals under 7 CFR Part 24), FmHA multi-family housing tenant appeals covered by the appeals provisions of 7 CFR Part 1944, suspension and debarment disputes falling within the scope of 7 CFR Part 1944 and offsets against tax refunds. Examples of the second kind of decision are decisions of the Federal Crop Insurance Corporation concerning claimed crop losses (which may determine whether the producer of the crop can or cannot qualify for an FmHA Emergency loan), decisions of the Agricultural Stabilization and Conservation Service on whether particular farmland is or is not "highly erodible" (which may determine whether an applicant is eligible for participation in FmHA administered conservation programs), and decisions by State governmental construction standards-setting agencies (which may determine whether FmHA will finance certain houses).

(d) The provisions of the Administrative Procedure Act, 5 U.S.C. 551–559, as amended, are not applicable to proceedings under this subpart except for the requirements concerning public information. The Equal Access to Justice Act, 5 U.S.C. 504, as amended, does not apply to these proceedings.

(e) Assistance will not be discontinued pending the outcome of an administrative appeal of a complete or partial adverse action. For borrowers with farmer program loans, as defined in § 1900.52(d) of this subpart, releases for

certain family living and farm operating expenses will not be terminated until the borrower has received an opportunity for administrative appeal and, if the borrower elects such an appeal, until the appeal and any further review is complete.

§ 1900.52 Definitions.

(a) *Appellant* means an applicant for FmHA assistance or an FmHA borrower or grantee, either individual or organizational, that is directly and adversely affected by an administrative decision by FmHA. The appellant may also be an applicant for or a recipient of a loan guarantee.

(b) *Hearing*, as used in the subpart, is an informal proceeding at which an administrative appeal from an adverse decision is heard.

(c) *Decision maker* is the FmHA official who actually makes the specific decision but not the official who serves in an advisory capacity in interpreting instructions, policies, or technical items, or who performs routine supervision. For example, if an FmHA official reviews a preapplication from an organization and directs a subordinate to include specific items in Form AD-622, "Notice of Preapplication Review Action," the official is the decision maker. However, when the official or designee serves only in an advisory capacity and is not significantly involved in the decision, the subordinate will be considered the decision maker.

(d) *Farmer program loans* means Farm Ownership (FO), Operating (OL), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Economic Opportunity (EO), Special Livestock (SL), Softwood Timber (ST) loans and/or Rural housing loans for farm service buildings (RHF).

(e) *Hearing officer* is the member of the National Appeals Staff who conducts the administrative appeal hearing. See Exhibit D of this subpart for the designations of hearing officers.

(f) *Review officer* is the member of the National Appeals Staff who has the authority to uphold, reverse, or modify decisions of the hearing officer. See Exhibit D of the subpart for the designations of review officers.

(g) *Record* means the FmHA file, papers filed by an appellant, tapes, written version of the transcript (if any) of a hearing, and decisions made by FmHA.

(h) *Official positions*. The terms County Supervisor and District Director may vary in a few geographical areas. These terms will also mean Assistant Area Loan Specialist and Area Loan Specialist, respectively.

(i) *"Directly and adversely affected"* means having a request for FmHA assistance denied in whole or in part or having FmHA assistance reduced, cancelled, or not renewed.

(j) *"Representative"* means an attorney or other person authorized in writing by an appellant to act for that person in an administrative appeal. Representatives will be presumed to retain their authority to act for an appellant until the written authorization is revoked in writing.

§ 1900.53 Adverse action procedures.

(a) The following actions must take place before adverse program administrative decisions are made. These steps are the responsibility of FmHA program decision makers.

(1) All documentation and calculations necessary to the determination to initiate an adverse action must be accurate, complete, and included within the administrative file.

(2) The specific reason or reasons for an intended adverse action should be clearly explained to the applicant or borrower. Vague reasons should be avoided. For example, avoid "you lack repayment ability." Calculations and documentation which demonstrate the lack of repayment will be provided and explained to the borrower or applicant.

(3) For Rural Housing (RH), Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Rural Housing Site (RHS) and Labor Housing (LH) loans and grants, a meeting must be held between the affected parties and the decision maker to explain the proposed adverse decision before it is final. This meeting need not be a separate meeting if the decision maker has, during the processing of the application or proposed action, advised the affected parties of the specific reasons for the denial or if the decision maker determines that a meeting would not be likely to achieve resolution of controversy. The decision maker will document the reasons for deciding not to hold a separate meeting in the file. In such cases, Exhibit B-2 with attachment Exhibit B-4 will be used, except in cases involving acceleration of accounts which are provided for in subpart A of Part 1955 of this chapter. When a meeting is required, Exhibit B-1 will be used without revision to inform the appellant.

(4) All other loan applicants and borrowers are entitled to an opportunity for a separate informal meeting with a decision maker before the decisional process of making an adverse decision is complete. The decision maker must give the applicant or borrower notice of his or her right to this meeting at a time

no later than the time at which the decision maker informs the applicant or borrower of the decision maker's intent to deny the application or to accelerate a borrower's loan or loans or otherwise to terminate assistance.

(5) This paragraph applies only to those situations covered by paragraphs (a)(3) and (4) of this section. When the person or organization officials attend a meeting with the decision maker and the meeting results in a resolution of the matter, the official will send the person or organization a letter within 7 calendar days of the meeting, setting forth the conclusions reached. If the meeting does not result in a resolution of the matter, Exhibit B-3 with attachment Exhibit B-4 will be sent within 7 calendar days of the meeting to notify the person or organization of their rights to an administrative appeal. If an applicant or borrower who requests a meeting fails to agree to a time and place or to attend, the appellant is still entitled to a hearing.

(b) When an applicant or borrower wishes to contest an appraisal of property value (except for appraisals made in connection with farmer program loan write-down requests), the applicant must be advised that he or she must seek discretionary review of the appraisal by the State Director of FmHA before the appeal. If an applicant or borrower seeks such discretionary review, the time for seeking administrative review will be extended until after the State Director has acted on the request. The State Director will review each such request and, when in his or her sole discretion it is deemed appropriate, may send a representative to make an on-site review.

(c) If an applicant, borrower or grantee is directly and adversely affected by a decision covered by this Subpart, the decision maker will inform that person or organization by letter of the decision within 10 calendar days of the decision.

(1) Letters, as indicated in Exhibit B-1 thru B-5, and Exhibit C of this subpart, as appropriate, will be used to notify the applicant, borrower or grantee. The notice will advise how to request an administrative appeal and to obtain the record. All such letters shall contain the statement: "The request for an administrative appeal must be received by the National Appeals Staff, Area Supervisor, [show complete mailing address], no later than [give date 15 days after the date of mailing the letter]. Requests which are postmarked by the U.S. Postal Service on or before that date will be considered as timely received."

(2) When a program administrative decision is required by a clear and objective statutory or regulatory reason listed in § 1900.55 as being non-appealable, the decision maker will notify the applicant or borrower of such reason and that the decision is not appealable by notice to the applicant or borrower given with Exhibit C of this subpart.

§ 1900.54 National Appeals Staff.

(a) The National Appeals Staff consists of a Director of Appeals, Area Supervisors, Hearing Officers, Review Officers, and such other subordinate offices as may from time to time be necessary to hear and determine administrative appeals from decisions made appealable under this Subpart.

(b) Appeal hearings will ordinarily be face-to-face hearings, held in the State of the appellant's residence, except in the following circumstances.

(1) With the consent of the appellant, hearings may be held in a place outside his or her State of residence when more convenient to the appellant, the hearing officer and the program officials who must attend the hearing.

(2) Appeals originating in Samoa, Guam, remote areas of Alaska, and the Western Pacific areas may be acted upon without a hearing when, in the discretion of the Area Supervisor, travel time and expense make such a hearing impracticable. In such cases, the Hearing Officer will allow a reasonable period of time for the appellant to examine or obtain copies of relevant documents and will make such other arrangements as are necessary to determine their appeal expeditiously and fairly.

(3) At the request of the appellant, the Hearing Officer, or the program officials who must appear at a hearing, the Area Supervisor may order use of a telephone conference call or calls to conduct a hearing. The Area Supervisor will solicit and consider the views of all parties before using this authority, and will not use it when any party shows that a face-to-face hearing is necessary to resolve issues of credibility or for other good reasons.

§ 1900.55 Appealable and non-appealable decisions.

(a) Program administrative decisions of the Farmers Home Administration that directly and adversely affect a person are appealable by that person to the National Appeals Staff under the provisions of this Subpart. All matters concerning the application of the law and applicable regulations to the facts of the matter may be considered. The National Appeals Staff and its officers

do not, however, have the authority to change or waive applicable laws or regulations. Program administrative decisions based on such clear and objective statutory or regulatory requirements are therefore not appealable. Examples of such decision include:

(1) Denial of a Section 504 grant to an applicant less than 62 years of age.

(2) Denial of a loan and/or grant to an individual or organization in an ineligible area.

(3) Denial of a loan/or grant to a type of organization not identified as an eligible applicant by the regulations.

(4) Denial of a loan because an application for an Emergency loan was not filed before a prescribed termination date.

(5) Denial of loan because of confirmed income that is above FmHA published limits.

(6) Interest credit reduction that is the result of a confirmed income increase.

(7) A determination of ineligibility for Emergency loans based on confirmation or verification by the Agricultural Stabilization and Conservation Service (ASCS) or the Federal Crop Insurance Corporation (FCIC) that the applicant did not have the required production losses of 30 percent or more.

(8) Denial of compensation for construction defects when it has been determined that the contractor is willing and able to correct the deficiencies.

(9) Requirements and conditions designated by law to be developed by agencies other than FmHA. They include, but are not limited to: Davis-Bacon wage rates; flood plain determination; archaeological and historical areas preservation requirements, and designation of areas that have been determined to be inhabited by endangered species.

(10) Applicable state development standards for construction and other development. An appeal may only be made when the appellant claims FmHA is misapplying the written standards.

(11) Interest rates as set forth in FmHA procedure, except denial of limited resource rates.

(12) A rent increase rejection when the borrower fails or refused to apply for rental assistance according the Exhibit C of Subpart C of Part 1930 of this chapter.

(13) Decisions involving non-program loans.

(14) Denial of assistance (including a subordination request or transfer and assumption) because of a conviction under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance. "Controlled substance" is

defined in Exhibit C to Subpart A of Part 1941 of this chapter (available in any FmHA office).

(15) Refusal by a prior or junior lienholder to consent to the terms of a conservation easement as set forth in subpart 5 of Part 1951 of this chapter.

(b) Appraisals of property value made by FmHA employees may be appealed through the hearing and review process provided for in this subpart only after review by the State Director as provided in § 1900.53(b) of this Subpart. See § 1900.57(l) for appraisals involving farmer program debt restructuring and loan servicing.

(c) In cases where denial of assistance is based upon both reversible and nonreversible actions, the denial of assistance is not appealable. Exhibit C will be used in these cases and will include all reasons for the decision.

(d) Appeals of either the presence of a wetland, converted wetland, or highly erodible land on a particular property must be filed directly with the USDA agency making the determination in accordance with its appeal procedures. If the loan denial involves an adverse decision by FmHA and another USDA agency, the appeal will be handled by both agencies in two separate appeals which should be handled concurrently. See Exhibit M of Subpart G of Part 1940 of this chapter for applicable FmHA requirements.

(e) A recommendation by the county committee that a debt settlement offer be refused cannot be overturned in appeal. The appeals officer can require the county committee to review the request again, as a result of an appeal. Exhibit C will not be used in this instance.

§ 1900.56 Appeal requests.

(a) When an applicant appeals a decision and requests a hearing, the appeal will be handled as follows:

(1) Upon receipt of the request, the Area Supervisor, National Appeals Staff will verify whether the appeal was submitted within the authorized period. If the appeal was not submitted within the authorized time period, appeal rights are terminated unless the delay of the appeal was for good reasons as determined by the Area Supervisor.

(2) If the appellant has made a request to obtain a copy of the FmHA material concerning the case, except where the acceleration of a loan secured by real estate is involved, the material (unless privileged) will be made available to the appellant or the appellant's representative or counsel at the FmHA decision maker's office for 10 calendar days following the receipt of the request

for appeal. An FmHA employee should ensure that no material is destroyed or removed from the files. The decision maker will then submit the complete file to the hearing officer.

(3) If, upon review of the file, the hearing officer determines that the decision will be reversed, he or she will notify all parties of the determination and of the actions to be taken. Otherwise, the hearing officer will arrange for a hearing to be held as soon as possible, but normally within 45 calendar days of the receipt of the request for a hearing.

(4) An appeal hearing as a result of a denial of a borrower's request for release of normal income security must be held within 20 days of such request unless the borrower agrees to a longer time.

(5) The hearing will be held at a location convenient to the appellant, decision maker and hearing officer. The hearing must be held in the state of residence of the appellant unless the appellant agrees to another location. If no place can be agreed on, the hearing officer will select the location within the appellant's state of residence.

(6) When the appellant or appellant's representative or counsel, without reasonable cause, fails to appear at the hearing, the appellant's appeal will be considered concluded. If the appellant's failure to appear is for reasons beyond the control of the appellant or a request for postponement is with reasonable cause, the hearing officer will reschedule the hearing at a time convenient to all interested parties, but usually not later than 15 calendar days after the initially scheduled date.

(7) At any time before the scheduled hearing, the appellant may waive the opportunity for a hearing and, instead, request that the hearing officer make a decision based on the file, any written statements or evidence the appellant may submit and any other information the hearing officer deems necessary.

(8) The decision maker or hearing officer, as appropriate, will provide the appellant any new reasons for adverse action to be presented by FmHA, if available, at least 7 calendar days before the hearing. If the reasons cannot be given at that time, the appellant will be advised that a rebuttal may be made in writing within 7 days after the hearing.

§ 1900.57 Hearing rules.

(a) The hearing will be an informal proceeding at which the appellant has the responsibility of showing why the initial decision should be reversed. To do so the appellant may provide any information or witnesses the appellant

believes should be considered in reaching a proper decision. The appellant may present evidence, witnesses (when appropriate, FmHA witnesses requested by the appellant will be made available at the hearing) and arguments in support of appellant's appeal, controvert evidence relied on by FmHA, and may question all witnesses. Any evidence may be received by the hearing officer without regard to whether that evidence could be employed in judicial proceedings. A suggested guide for the order of presentation at a hearing is included in Exhibit A to this Subpart.

(b) The decision maker (or successor) or informed delegate (who must be one who participated in the decision making process) will be at the hearing and will present evidence if necessary. Any other witnesses or FmHA personnel the decision maker thinks necessary to support the initial decision will be at the hearing to present evidence.

(c) During the hearing, the hearing officer may request additional witnesses to appear or request further information if the hearing officer considers this necessary to reach a proper decision.

(d) Recording the hearing:

(i) The hearing officer will tape record hearings. With prior permission of the Area Supervisor, the hearing officer may arrange to have the hearing recorded by some other means.

(ii) The hearing officer will tape record hearings. With prior permission of the Area Supervisor, the hearing officer may arrange to have the hearing recorded by some other means.

(iii) At the time the decision is rendered and upon request, the record will be made available to the appellant as set out in the hearing officer's decision letter. Also upon request, a transcript of the hearing will be provided for a fee approximately equal to the government's cost of having the transcript made. The appellant may request and receive a copy of the hearing tape at no cost. The appellant may also make their own arrangements, independent of FmHA, for a transcript of the hearing.

(2) File documents and other written materials used in the hearing will be included as part of the record.

(e) For good cause, the hearing officer will, at the request of either the appellant or an FmHA official, continue the hearing to a future time. The length of the continuance will be in the hearing officer's discretion.

(f) The decision of the hearing officer shall be based on facts presented at the hearing or in writing, rebuttal by appellant and decision maker of new evidence, additional information

requested by the hearing officer, appropriate FmHA files, applicable statutes and regulations, and the hearing officer's general knowledge of FmHA program functions.

(g) If an appellant waives the opportunity for a hearing and the hearing officer reviews any information the appellant or decision maker has not previously reviewed, the appellant and decision maker will be advised by the hearing officer of the additional information and be allowed an opportunity to review it and respond accordingly. Usually, the total time given the appellant or decision maker to review and respond to this additional information will not exceed 15 calendar days.

(h) The hearing officer will render a decision within 30 calendar days of the date set for the hearing, unless this would not allow sufficient time to consider the appellant's response to any additional information. For appeals involving restructuring of farmer program loans, a decision will be made within 45 days after the receipt of the appeal request.

(i) If the initial decision is reversed, the hearing officer will inform the appellant, original decision maker, and any other official servicing the account, by letter of the decision, the reason for it, and what action will be taken.

(j) If the initial decision is upheld or modified but not reversed, the hearing officer will inform the appellant by letter of the decision giving specific reasons, with a copy to the decision maker and any other official servicing the account. Normally the hearing officer's decision letter will be similar to FmHA Guide Letter 1900-B-1.

(k) If the appellant does not request in writing a review of the hearing officer's decision within the 30 calendar day period provided in the letter, the appeal will be considered concluded.

(l) For farmer program loans, an appeal may include a request by the borrower for an independent appraisal of any property securing the loan. On such request the hearing officer shall present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower shall select an appraiser to conduct the appraisal, the cost of which shall be borne by the borrower. The results of such appraisal shall be considered in any final determination concerning the loan. A copy of any appraisal shall be provided to the borrower. The results of such appraisal shall be considered in any final determination concerning the loan. A copy of any appraisal shall be provided to the borrower. If an

independent appraisal is requested, the 45-day decision deadline referred to in paragraph (h) of this section is extended as necessary to allow completion of the appraisal.

§ 1900.58 Review rules.

If the appellant requests a review:

(a) The review officer may obtain a copy of the transcript of the hearing if one was arranged for by the appellant.

(b) The review officer will review the certified record, applicable law and regulations, any additional written information furnished by the appellant including appellant's comments on the transcript, and any additional information as the review officer deems necessary. However, if the review officer reviews any information the appellant has not previously reviewed, the appellant will be advised by the review officer of the additional information and be allowed an opportunity to review it and respond accordingly. Usually, the total time given the appellant to review and respond to this additional information will not exceed 15 calendar days. Normally, the review officer will render a decision within 45 calendar days of receipt of a review request from the appellant.

(c) The review officer's decision will be based on written facts presented for the review, the certified record, additional information requested by the review officer, appellant's or decision maker's written response to the additional information reviewed by the review officer, applicable statutes and regulations, and the review officer's general knowledge of FmHA program functions.

(d) The appellant will be informed of the final decision by letter. A copy will be sent to the decision maker, the hearing officer and any other official servicing the account. If the decision is upheld, the letter must contain the following statement:

"This review concludes the administrative appeal of your case." If the State Director is the review officer, the appellant will be given further review rights to the Director of Appeals. The appellant will be notified as set forth in § 1900.57(j) of this subpart.

§ 1900.59 Effect of appeal decision.

(a) *Effective date.* When an appeal is concluded, the effective date of the action to be taken will be the date of the initial decision from which the appeal was taken. All dates and deadlines provided for in acceleration notice will remain in effect. Regulations in effect on the effective date will govern the action

unless those requirements would not be authorized under statutory or case law at the time the appeal is concluded. Any loan made as the result of an appeal will bear interest at the rate in effect for that type of loan on the date of actual loan approval. When an emergency loan appellant is given relief, it will include the right to file a new application (if necessary) within 30 days of the date of the decision letter or before the termination date established for the disaster, whichever is later.

(b) *Finality.* A decision made when an appeal is concluded will be administratively final.

(c) *Timeliness.* Whenever an adverse decision concerning a loan or loan guarantee (except for RH, RRH, RCH, RHS, and LH loans and grants) is appealed and the hearing officer or review officer reverses or modifies the initial decision, the decision maker shall resume processing of the application and notify the applicant of this within 15 days after the decision maker is notified of the decision of the hearing or review officer. The decision maker will inform the applicant of any further information needed.

§ 1900.60 Records.

Appeal records will be maintained in the applicant's or borrower's case folder.

§ 1900.61—1900.100 [Reserved]

Exhibit A to Subpart B—Guide to Conducting a Hearing

A. Upon receipt of the file, the hearing officer will become familiar with the case to be sure that pertinent information is presented at the hearing.

B. The hearing officer personnel will arrange a hearing at a place convenient to the appellant, decision making official, and hearing officer in the state of residence of the appellant, unless the appellant consents to holding the hearing in another state.

C. The hearing officer must be an unbiased presiding officer.

1. The hearing officer should have no preconceived opinions concerning the issues.

2. To preserve this unbiased atmosphere—

a. It is preferable that the hearing not be held in an FmHA office. Places such as Conference Room—Agricultural Service Center, SCS, ASCS, Extension Service, etc. should be first considered. This may not be possible, but an attempt should be made to hold the hearing at a neutral place.

b. The hearing officer should not fraternize with the decision maker or other FmHA personnel before, during, or after the hearing. The hearing officer should be seated separate from the others at the hearing.

D. The hearing proceedings should be conducted informally.

1. The appellant has the responsibility of showing why the initial decision should be reversed.

2. The hearing officer may receive evidence without regard to whether that evidence could be employed in judicial proceedings, but evidence clearly unrelated to the issues being appealed need not be accepted.

3. The hearing must be conducted in a manner to get facts on the record. Therefore, the hearing must deal in facts and professional opinions.

4. The hearing officer should keep control over the hearing and not allow any of the participants, including counsel for the appellant or the decision maker, to unduly attempt to set the tone of the hearing. If any person(s) become uncontrollable, they may be requested to leave. If they refuse to leave, the hearing may be terminated.

5. As a fact-finder, the hearing officer may question any witness, request additional witnesses to appear, and/or request further information if this information is necessary to reach a proper decision. If the hearing officer is going to request additional witnesses, these witnesses should be given adequate notice of the time and place of the hearing.

E. Order of presentation. The order listed below should be followed:

1. The opening statement by appellant setting forth why original decision was erroneous. This is an outline of how appellant plans to proceed.

2. The opening statement by decision maker to show why the decision is correct.

3. The appellant presents evidence including documents, witnesses, and arguments supporting the appellant's position. The decision maker can be questioned at this time by the appellant. Any witnesses presented by the appellant can be questioned by the decision maker or other Government representative.

4. The decision maker or other Government representative then has an opportunity to rebut appellant's arguments and/or evidence by presenting evidence including witnesses. Any witnesses may be questioned by appellant.

5. The hearing should be concluded with a summary by both sides.

6. The appellant may arrange to have a transcript of the hearing made at the appellant's expense.

7. The appellant may request a copy of the hearing tape.

F. The hearing officer will make a decision based on the following:

1. Facts and materials presented at the hearing.

2. Appropriate FmHA files.

3. Applicable statutes and regulations.

4. The hearing officer's general knowledge of FmHA program functions.

G. After reaching a decision, the hearing officer must prepare the appropriate letter setting out the decision and forward it to the appellant, with a copy to the decision maker or any other official servicing the account.

1. This letter must set out specific reasons for the decision, and the facts on which the decision is based.

2. The decision will be normally communicated by letter to the appellant within 30 calendar days of the hearing.

a. If the initial decision is reversed, the letter will so inform the appellant and the

decision maker, giving the reasons and action to be taken.

b. If the initial decision is upheld or modified, the letter will contain a statement set out in the regulations that the appellant may have the decision reviewed further if the appellant files a request for review within 30 calendar days of the date of the letter.

Exhibit B-1 to Subpart B—Letter for Notifying Applicants and Borrowers of Adverse Decisions Where the Decision is Appealable

(Use when meeting with Decision Maker is required)

United States Department of Agriculture

Farmers Home Administration

(Insert address)

Date

Dear :

After careful consideration, we [were] unable to take favorable action on your application/request for Farmers Home Administration services [are cancelling/reducing the assistance you are presently receiving]. The specific reasons for our decision are:

(insert here the adverse decision and all of the specific reasons for the adverse action.)

If you have any questions concerning the decision or the facts used in making our decision and desire further explanation, you must request a meeting with (this office) (The County Committee) within 15 calendar days of the date of this letter. You should present any new information or evidence along with possible alternatives for our consideration. You may also bring a representative [or legal counsel] with you. Should we be unable to satisfactorily resolve your case, you will be advised of your appeal rights and how to begin the appeal process. If, without good cause, you fail to schedule or attend this meeting, there will be no further appeal.

The Federal Equal Credit Opportunity Act prohibits creditors from discrimination against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

(Decision Maker)

(County Supervisor may sign for County Committee)

(Title)

Exhibit B-2 to Subpart B—Letter for Notifying Applicants and Borrowers of Adverse Decisions Where the Decision is Appealable

(Use when meeting with Decision Maker is required)

United States Department of Agriculture

Farmers Home Administration

(Insert address)

Date

Dear :

After careful consideration, FmHA [was] unable to approve your application/request for service [is cancelling/reducing the assistance you are presently receiving] [is planning to accelerate and liquidate your account(s)]¹. The specific reasons for our decision are:

(insert here the adverse decision and all of the specific reasons for the adverse action.)

See attachment for your appeal rights.

A request for a hearing should be sent to the Area Supervisor, National Appeals Staff

(address)

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

(Decision Maker)

(County Supervisor may sign for County Committee)

(Title)

Exhibit B-3 to Subpart B—Letter for Notifying Applicants and Borrowers of Unfavorable Decision Reached at the Pre-Decisional Meeting

United States Department of Agriculture

Farmers Home Administration

(Insert address)

Date

Dear :

We appreciated the opportunity to review the fact relative to [your application/request for FmHA services] [the assistance you are presently receiving]. We regret that our [meeting] [conference] with you did not result in a satisfactory conclusion.

(insert here the adverse decision and all the specific reasons for the adverse action.)

See attachment for your appeal rights.

A request for a hearing should be sent to the Area Supervisor, National Appeals Staff

(address)

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

(Decision Maker)

(County Supervisor may sign for County Committee)

(Title)

Exhibit B-4 to Subpart B—Appeals of Adverse Actions

(Use as an attachment to Exhibits B-2 and B-3)

Appeals of Adverse Actions

The decision described in the attached letter did not grant you the FmHA assistance you requested or will terminate the assistance you are presently receiving. You have the right to appeal this decision and to have a hearing or a review in lieu of a hearing. In order for this decision to be changed, you will have to show why the decision should be reversed. If you wish to appeal the decision, the request for a hearing must be received in the office of the Area Supervisor, National Appeals Staff at the address shown in the letter to you informing you of the adverse decision and your appeal rights, within 30 days after the date of that letter.

The hearing will generally be held within 45 days of the receipt of your request.

You or your representative or counsel may come to this office anytime during regular office hours in the 10 days following the receipt of your request for a hearing to examine or copy relevant non-confidential material in your file. Photostatic copies will be provided in accordance with the Freedom of Information Act.

No earlier than 11 days after the Area Supervisor receives your request for appeal, we will forward the file, and any additional documents to the Hearing Officer designated by the Area Supervisor to conduct your hearing.

The Hearing Officer will contact you regarding a time and place for the hearing. You may have a representative or counsel with you and may present your own witnesses. The FmHA decision maker or representative will be there and available for you to question, as will all other witnesses presented by FmHA. If you wish to have other FmHA employees present as your witnesses, let the Hearing Officer know and, if possible, they will be there.

FmHA will record the hearing. You may request a copy of the tape. You may also tape record the hearing. You may request FmHA

¹ Used only for Farmer Program graduation.

to have a transcript of the tape made at your expense.

At any time before the scheduled hearing you may request that the Hearing Officer make a decision without a hearing. If you do, the Hearing Officer's decision will be based on the FmHA file, any written statements or evidence you may provide and any additional information the Hearing Officer thinks necessary.

The Hearing Officer will advise you by letter of the decision made, the reasons for it, and, if your request for assistance is not granted, what further administrative appeals may be available to you.

A more complete description of the hearing (A Guide to Conducting an Appeals Hearing) may be obtained from any FmHA office.

Exhibit B-5 to Subpart B—Letter for Notifying Applicants and Borrowers of Adverse Decisions Where the Decision is Appealable

(Use when meeting with the decision maker is the option of the appellant)

United States Department of Agriculture
Farmers Home Administration

(Insert Address)

Date _____

Dear _____:

After careful consideration, we [were unable to take favorable action on your application/request for Farmers Home Administration services] [are canceling/reducing the assistance you are presently receiving]. The specific reasons for our decision are:

(Insert here the adverse decision and all of the specific reasons for the adverse action.)

If you have any questions concerning the decision or the facts used in making our decision and desire further explanation, you may call the County Office (insert phone number) to request a meeting with [this office] [the County Committee] within 15 calendar days of the date of this letter. You should present any new information or

evidence along with possible alternatives for our consideration. You may also bring a representative [or legal counsel] with you. You also have the right to appeal this decision to a hearing officer in lieu of, or in addition to, a meeting with [this office] [the County Committee]. See attachment for your appeal rights.

A request for a hearing should be sent to the Area Supervisor, National Appeals Staff

(address)

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

(Decision Maker)

(County Supervisor may sign for County Committee)

(Title)

Exhibit C to Subpart B—Letter for Notifying Applicants and Borrowers of Adverse Decisions When Part or all of the Decision is Appealable

UNITED STATES DEPARTMENT OF AGRICULTURE

Farmers Home Administration

(Insert address)

(date)

Dear _____:

After careful consideration we [were unable to take favorable action on your application/request for Farmers Home

Administration services] [are canceling/reducing the assistance you are presently receiving]. (Insert and number all of the *specific* reasons for the adverse action. Examples of nonappealable reasons are listed in § 1900.55(a).

If you have any questions about this action, we would like the opportunity to explain in detail why your request has not been approved, explain any possible alternative, or provide any other information you would like. You may bring any additional information you may have and you may bring a representative or counsel if you wish. Please call (telephone number) for an appointment.

Applicants and borrowers generally have a right to appeal adverse decisions, but FmHA decisions based on certain reasons are not appealable. We have determined that the reason(s) numbered _____ for the decision in this case make(s) the decision not appealable under FmHA regulations. You may, however, write the Area Supervisory, National Appeals Staff (insert address) for a review of the accuracy of our finding that the decision is not appealable.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

(Decision Maker)

(County Supervisor may sign for County Committee)

(Title)

Exhibit D to Subpart B—Hearing/Review Officer Designations

Decision maker or decision	Hearing officer	Review officer
County Supervisor.....	National Appeals Staff Hearing Officer.....	State Director and/or Director of Appeals.
County Committee.....	National Appeals Staff Hearing Officer.....	State Director and/or Directors of Appeals.
District Director.....	National Appeals Staff Hearing Officer.....	State Director and/or Director of Appeals.
State Director.....	As appointed by Director of Appeals.....	Director of Appeals.
Division Director or Assistant Administrator.....	Director of Appeals.....	(No review.)
Deputy or Associate Administrator.....	Director of Appeals.....	(No review.)

Notes:

1. District Director also means Assistant District Director or District Loan Specialist.
2. County Supervisor also means Assistant County Supervisor with loan approval authority.
3. The Director of Appeals may designate a member of the National Appeals Staff to conduct a hearing or review. When the hearing/review is completed, the designee will send the complete case file, hearing notes, tape recordings, and a recommended decision to the Director of Appeals for final decision. The Director of Appeals may for individual cases delegate final decision authority to a designee.
4. When a hearing involves both the action on a farmer program loan and acceleration on a non-farmer program loan, the appeal process will follow that for the decision maker to foreclose the non-farmer program loan account.
5. For decisions not directly covered above, advice should be sought from the Director of Appeals.
6. For decisions that reverse, modify, or otherwise require additional work by the state, district or county staff which are signed by the Director of Appeals or designee, copies of such decisions will be provided promptly to the Deputy Administrator for Program Operations, the appropriate Assistant Administrator, and the State Director (attention: appropriate program chief) for their information.
7. An appellant may elect to have an appeal reviewed by the State Director, or the Director of Appeals. The decision of the State Director will be subject to further review by the Director of Appeals upon request by the appellant.

PART 1980—GENERAL

3. The authority citation for Part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart G—Nonprofit Corporations Loan and Grant Program

4. Section 1980.680 is revised to read as follows:

§ 1980.680 Appeals.

Any adverse decision made by FmHA which affects the borrower, lender or grantee may be appealed under Subpart B of Part 1900 of this chapter.

Dated: March 30, 1988.

Vance L. Clark,
Administrator, Farmers Home
Administration.

[FR Doc. 88-8430 Filed 4-15-88; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****18 CFR Parts 272 and 274**

[Docket No. RM88-10-000]

Revision of the Definition for Natural Gas Produced From Devonian Shale

Issued April 7, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations defining Devonian shale for purposes of qualifying under section 107(c)(4) of the Natural Gas Policy Act of 1978 (NGPA). The Commission is proposing to expand the definition to allow producers to measure Devonian shale from a selected interval within the Devonian age stratigraphic interval instead of measuring from the beginning of the Devonian age stratigraphic interval encountered by the wellbore, as currently provided in the regulations. Price controls for gas qualifying under NGPA section 107(c)(4) were eliminated under NGPA section 121(b) on November 1, 1979. Most of the gas qualifying as Devonian shale gas under the proposed rule will also qualify as either NGPA sections 102 or 103 gas. Price controls for this gas were also eliminated on either January 1, 1985 or July 1, 1987. Consequently, there will be minimal impact on the price paid for

Devonian shale gas qualifying under this proposed rule change.

DATE: An original and 14 copies of the written comments on this proposed rule must be filed with the Commission by May 18, 1988.

ADDRESS: All filings should refer to Docket No. RM88-10-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Julia Lake White, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's action in Docket No. RM88-10-000 adopted and released April 7, 1988.

The full text of this Commission action is available for inspection and copying during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

List of Subjects**18 CFR Part 272**

Natural gas.

18 CFR Part 274

Natural gas, Price controls, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission proposes to amend Parts 272 and 274, Chapter I, Title 18 of the Code of Federal Regulations as set forth below.

By direction of the Commission:
Lois D. Cashell,
Acting Secretary.

PART 272—DEREGULATED NATURAL GAS

1. The authority citation for Part 272 continues to read as follows:

Authority: Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982).

2. In § 272.103, paragraph (e) is revised to read as follows:

§ 272.103 Definitions.

(e) "Natural gas produced from Devonian shale" means natural gas produced from fractures, micropores and bedding planes of shales deposited during the Paleozoic Devonian Period.

(1) "Shales deposited during the Paleozoic Devonian Period" can be defined as either:

(i) The gross Devonian age stratigraphic interval encountered by a well bore, at least 95 percent of which has a gamma ray index of 0.7 or greater; or

(ii)(A) Except as provided in paragraph (ii)(B) of this section, one continuous interval within the gross Devonian age stratigraphic interval, encountered by a well bore, as long as at least 95 percent of the selected Devonian shale interval has a gamma ray index of 0.7 or greater.

(B) If the interval selected is more than 200 feet thick, the bottom and top 100 foot portions must meet the five percent test independently.

(2) When measuring the Devonian age stratigraphic interval under paragraph (e)(1) of this section, the gamma ray index at any point is to be calculated by dividing the gamma ray log value at that point by the gamma log value at the shale base line established over the entire Devonian age interval penetrated by the well bore.

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

3. The authority citation for Part 274 is revised to read as follows:

Authority: Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982).

4. In § 274.205, paragraphs (d)(3)(i), (d)(3)(ii) and (d)(4)(ii) are revised to read as follows:

§ 274.205 High-cost natural gas.

(d) *Natural gas produced from Devonian Shale.*

(3)(i) For wells completed on or after November 1, 1979, a gamma ray log with superimposed indications of the shale base line and the gamma ray index of 0.7 over the Devonian age stratigraphic section designated pursuant to § 272.103(e);

(ii) For wells completed before November 1, 1979:

(A) A gamma ray log, if reasonably available, with superimposed indications of the shale base line and the gamma ray index of 0.7 over the Devonian age stratigraphic section designated pursuant to § 272.103(e); or

(B) If a gamma ray log is not reasonably available, a driller's log, or similar report, indicating the general characteristics of the strata penetrated and the corresponding depths at which they are encountered throughout the

Devonian age stratigraphic section designated pursuant to § 272.103(e);

(4) * * *

(ii) Demonstrating that the percentage of potentially disqualifying nonshale footage for the stratigraphic section selected is equal to or less than 5 percent of the Devonian stratigraphic age interval designated pursuant to § 272.103(e);

[FR Doc. 88-8427 Filed 4-15-88; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-47-88]

Consolidated Return Regulations; Deferral of Gain or Loss

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary and final and final regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the *Federal Register*, the Internal Revenue Service is issuing temporary and final regulations to provide rules to taxpayers concerning the application of the consolidated return regulations to complete liquidations of subsidiary members of consolidated groups. The text of the temporary and final regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: *Proposed Effective Date:* The regulations are proposed to apply to taxable years for which the due date (without extensions) of the income tax return is after April 14, 1988.

Date for Comments and Requests for a Public Hearing

Written comments and requests for a public hearing must be delivered or mailed by June 17, 1988.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T [LR-47-88], Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Patricia W. Pellervo of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) or telephone 202-566-3458 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Background

Temporary regulations published in the Rules and Regulations portion of this issue of the *Federal Register* amend temporary regulation § 1.1502-13T and add a new temporary regulation § 1.1502-14T to Part 1 of Title 26 of the Code of Federal Regulations (CFR), and make conforming amendments to §§ 1.1502-13 and 1.1502-14. The final regulations that are proposed to be based on these temporary regulations would be added to Part 1 of Title 26 of the CFR. Those final regulations would provide rules on the treatment of gain or loss recognized on complete liquidations within a group of corporations that files consolidated returns. For the text of the new temporary regulations, see T.D. 8196, published in the Rules and Regulations portion of this issue of the *Federal Register*. The preamble to the temporary regulations explains the regulations.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Furthermore, the Secretary of the Treasury has certified that this rule, if issued, will not have a significant economic impact on a substantial number of small entities. The rule applies only to affiliated groups of corporations that have elected to file consolidated returns, which tend to be larger businesses. It would not significantly alter the reporting or recordkeeping duties of small entities. A regulatory flexibility analysis is therefore not required under the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the *Federal Register*.

Drafting Information

The principal author of the proposed regulations is Patricia W. Pellervo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, other

personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 88-8412 Filed 4-14-88; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Permanent Regulatory Program; Public Comment Period and Opportunity for Public Hearing on Amendments; Award of Costs and Attorney's Fees

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing the receipt of proposed amendments to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments concern the award of costs and attorney's fees by the Ohio Reclamation Board of Review.

This notice sets forth the times and locations that the Ohio program and proposed amendments to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on May 18, 1988. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. on May 13, 1988. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on May 3, 1988.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to Ms. Nina Rose Hatfield, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each

requester may receive, free of charge, one copy of the proposed amendments by contacting OSMRE's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, Room 202, Columbus, Ohio 43232. Telephone: (614) 866-0578.

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street N.W., Room 5131, Washington, D.C. 20240. Telephone: (202) 343-5492.

Ohio Department of Natural Resources, Division of Reclamation, Fountain Square, Building B-3, Columbus, Ohio 43224. Telephone: (614) 265-6675.

FOR FURTHER INFORMATION CONTACT:

Ms. Nina Rose Hatfield, Director, Columbus Field Office, (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982 *Federal Register* (47 FR 34688). Subsequent actions concerning the conditions of approval and other revisions, modifications and amendments to the Ohio program are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendments

On August 10, 1987 (52 FR 29515), the Deputy Director of OSMRE approved amendments to the rules of the Ohio Reclamation Board of Review (RBR) at Ohio Administrative Code (OAC) Sections 1513-3-21(E) (3), (4), and (5). These amendments had been required by OSMRE so that the standards used by the RBR to award costs and attorney's fees be as effective as Federal counterparts.

During the promulgation of the approved rule change, the Ohio Mining and Reclamation Association (OMRA) voiced opposition to the rule change and the RBR withdrew the amendments in a letter dated November 13, 1987 (Administrative Record No. OH-0993). The disputed issues concerning this rule change were subsequently resolved under a settlement agreement filed on December 23, 1987 between the OMRA, the Mining and Reclamation Council of America, and OSMRE.

By letter dated March 24, 1988 (Administrative Record No. OH-1021),

the RBR resubmitted revised amendments to the Ohio Administrative Code (OAC) at Sections 1513-3-21(E), (3), (4), and (5) which reflect the terms of the settlement agreement. The resubmitted changes are briefly summarized below:

(1) The proposed amendments would modify OAC Section 1513-3-21(E)(3) to delete the award of costs and expenses to a permittee from persons other than the State of Ohio where the permittee initiates or participates in a proceeding under Chapter 1513 of the Ohio Revised Code and where a finding has been made that the permittee made a substantial contribution to a full and fair determination of the issues.

(2) The proposed amendments would modify OAC Section 1513-3-21(E)(4) to add that costs and expenses may be awarded to a permittee from any person if the permittee demonstrates that that person initiated or participated in a proceeding under Chapter 1513 of the Ohio Revised Code in bad faith and for the purpose of harassing or embarrassing the permittee.

(3) The proposed amendments would modify OAC Section 1513-3-21(E)(5) to provide for the award of costs and expenses to the Ohio Division of Reclamation where the Division demonstrates that any person applied for RBR review pursuant to Chapter 1513 of the Ohio Revised Code or where any party has participated in such a proceeding in bad faith and for the purpose of harassing or embarrassing the Division.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSMRE is now seeking comment on whether the amendments proposed by ODNR satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4:00

p.m. on May 3, 1988. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSMRE representatives to discuss the proposed amendments may request a meeting at the Columbus Field Office by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under "ADDRESSES." A written summary of each public meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Date: April 6, 1988.

Jesse Jackson, Jr.,

Acting Assistant Director, Eastern Field Operations.

[FR Doc. 88-8407 Filed 4-15-88; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-88-19]

Special Local Regulations for Chesapeake Bay Bridges Swim Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal that would establish permanent regulations for the Chesapeake Bay Bridges Swim Race, an

annual event held in June. Annual notice of the precise dates and times of the swim will be published in the Local Notice to Mariners and a Federal Register notice. The special local regulations are necessary to restrict general navigation in the regulated area. These regulations are needed to provide for the safety of life on the navigable waters during the event.

DATES: Comments must be received on or before May 18, 1988.

ADDRESSES: Comments should be mailed or hand carried to Commander (bb), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. The comments will be available for inspection and copying at Room 209 of this address. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 (804) 398-6204.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 05-88-19) and the specific section of the proposal to which their comments apply, and give reasons for each comment. The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on the proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process. The receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

Drafting Information

The drafters of this notice are Mr. Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and Commander Robert J. Reining, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Proposed Regulation

The area covered by this proposal is the same as that covered by the special local regulations for the Fourth Annual Chesapeake Bay Bridges Swim Race held on June 14, 1987. The Chesapeake Bay Bridges Swim Race is an annual

event consisting of approximately 600 swimmers swimming across the Chesapeake Bay from shore to shore. The swimmers are required to swim between the William P. Lane Jr. Memorial Twin Bridges. It is necessary to close a portion of the Chesapeake Bay to all traffic except participants for the safety of those competing in the swim.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Because closure of the waterway is not anticipated for any extended period, commercial marine traffic will be inconvenienced only slightly. The economic impact of this proposal is expected to be so minimal, that a full regulatory evaluation is unnecessary. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new § 100.507 is added to read as follows:

§ 100.507 Chesapeake Bay Bridges Swim Races, Chesapeake Bay, MD.

(a) *Definitions:* (1) *Regulated Area:* The waters of the Chesapeake Bay between and adjacent to the spans of the William P. Lane Jr. Memorial Bridge shore to shore 500 yard north of the north span of the bridge from the western shore at latitude 39°00'36" North, longitude 76°23'05" West and the eastern shore at latitude 38°59'14" North, longitude 76°20'00" West, and 500 yards south of the south span of the bridge from the western shore at latitude 39°00'16" North, longitude 76°24'30" West and the eastern shore at latitude 38°58'38.5" North, longitude 76°20'06" West.

(2) *The Coast Guard Patrol Commander:* The Coast Guard Patrol

Commander is a commissioned, warrant or who has been designated by the Commander, Group Baltimore.

(b) *Special Local Regulations:* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(A) Stop the operator's vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign, and

(B) Proceed as directed by any commissioned, warrant or petty officer.

(c) *Effective Period:* This section is effective during the Chesapeake Bay Bridges Swim Race, and for one hour before the event starts. The Commander, Fifth Coast Guard District publishes a notice in the Federal Register and the Fifth Coast Guard District Local Notice to Mariners that announces the times and dates that the section is in effect.

Dated: April 11, 1988.

R.M. Polant,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.
[FR Doc. 88-8402 Filed 4-15-88; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD8-88-04]

Drawbridge Operation Regulations; Tensaw River, AL

AGENCY: U.S. Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of CSX Rail Transport, the Coast Guard is considering a change to the regulation governing the operation of the swingspan railroad bridge over the Tensaw River, mile 15.0 near Hurricane, Baldwin County, Alabama, by requiring that at least eight hours advance notice be given for opening the draw; except that, during periods of severe storms or hurricanes the draw must open on signal. This proposal is being made because of infrequent requests to open the draw. During 1986, the bridge opened for passage of vessels 118 times, or an average of 9.8 times per month. During 1987, the bridge opened only 97 times, or an average of 8.1 times per month. There was no pattern to the bridge openings that would indicate that vessel traffic was heavier or lighter during any particular month or season of the year. This action will relieve the bridge owner of the burden of having a

person available at the bridge, and will still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before June 2, 1988.

ADDRESS: Comments should be mailed to Commander (ob), Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130-3396. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John Wachter, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. This proposed regulation may be changed in the light of comments received.

Drafting Information

The drafters of this notice are John Wachter, project officer, and Lieutenant Commander James Vallone, project attorney.

Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is 11.0 feet above mean high water, and 12.0 feet above mean low water. There are, on average, twenty-one trains crossing the bridge daily. Navigation through the bridge consists of tugs with tows and outboard motor powered pleasure boats.

Eight hours advance notice for an opening of the draw would be made by collect call at any time to the railroad Train Master's office in Mobile, Alabama, telephone (205) 434-1304.

To provide for leeway in the appointed vessel arrival time, CSX Rail Transport would have a tender at the bridge at least one-half hour before the appointed opening time, and the tender

would remain at least one-half hour after that time for a late arriving vessel.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that the number of vessels passing the bridge averages only about two per week. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; and 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.113 is revised to read as follows:

§ 117.113 Tensaw River.

The draw of the CSX Rail Transport bridge, mile 15.0 at Hurricane, shall open on signal if at least eight hours advance notice is given; except that, during periods of severe storm or hurricanes, from the time the National Weather Service sounds an "alert" for the area until the "all clear" is sounded, the draw shall open on signal.

Dated: April 4, 1988.

Peter J. Rots,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 88-8400 Filed 4-15-88; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7-88-03]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Tierra Verde Community Association Inc. and the Florida Department of Transportation, the Coast Guard is considering adding regulations governing the Pinellas Bayway, Structure "E" (SR 679) drawbridge, at mile 113, St. Petersburg Beach, Florida by permitting the number of openings to be limited during certain periods. This proposal is being made because a significant increase in highway traffic and bridge openings occurs on weekends due to increased recreational activity. This action should accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before June 2, 1988.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131-3050. The comments and other materials referenced in this notice will be available for inspection and copying on the 4th Floor, of the Brickell Plaza Federal Building, 909 SE 1st Ave, Miami, Florida. Office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments also may be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ms. Zonia Reyes at (305) 536-4103.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Ms. Zonia Reyes, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Proposed Regulations

The Structure "E" drawbridge presently opens on signal. Traffic counts

show moderate vehicle use of the bridge on weekdays and bridge logs show less than one opening of the draw per hour during the same period. There is, however, a significant increase in highway traffic and bridge openings on weekends. The Tierra Verde Community Association requested that the draw open 3 times per hour on weekends and holidays from 11 a.m. to 6 p.m. The Florida Department of Transportation, owner of the bridge, requested that the draw open on the hour, 20 minutes after the hour, and forty minutes after the hour, seven days a week from 6 a.m. to 7 p.m. After careful review of the number of bridge openings and highway traffic data, the Coast Guard has determined that weekday restrictions are not justified.

The proposed rule would limit weekend and federal holiday openings to once every 15 minutes during the hours of 9 a.m. to 6 p.m. This would eliminate back to back openings which are the principal cause of vehicular traffic jams, and would provide for the reasonable needs of navigation. The regulations, if approved, would exempt public vessels of the United States, tugs with tows, and vessels in distress, which would be passed through the draw at anytime.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.287(d)(3) is added to read as follows:

§ 117.287 Gulf Intracoastal Waterway, Caloosahatchee River to Perdido River.

(d)(3) The draw of the Pinellas Bayway, Structure "E" (SR 679) bridge, mile 113, at St. Petersburg Beach, Florida shall open on signal; except that from 9 a.m. to 6 p.m. on Saturdays, Sundays, and Federal holidays, the draw need be opened only on the hour, quarter-hour, half-hour, and three quarter-hour.

Dated: March 6, 1988.

H.B. Thorsen,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 88-8401 Filed 4-15-88; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 80467-8067]

Atlantic Sea Scallop Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to implement Amendment 2 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery (FMP). Amendment 2 (1) specifies a 10 percent increase in the meat count standard during the months of October, November, December, and January, the primary period when spawning causes reduction in individual meat weight of scallops that have reached harvestable age; and (2) provides a framework mechanism to change the magnitude and/or the timing of the adjustment of the meat count standard during the spawning season. The purpose of Amendment 2 is to provide regulatory relief to the industry. This proposed rule also makes minor technical changes to the regulations.

DATE: Comments on the proposed rule are invited until April 29, 1988.

ADDRESSES: Send comments to Richard Roe, Regional Director, National Marine Fisheries Service, Northeast Regional Office, 14 Elm Street, Gloucester, Massachusetts 01930-3799. Mark the outside of the envelope "Comments on the scallop regulations."

Copies of the amendment, the environmental assessment, and the regulatory impact review are available

from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT:

Peter Colosi, (Chief, Plan Administration Branch, NMFS), 617-281-3600, ext. 324.

SUPPLEMENTARY INFORMATION: The FMP is implemented by regulations appearing at 50 CFR Part 650. The principal objectives of the FMP are: (1) Restoration of adult stock abundance and age distribution, (2) enhancement of yield per recruit of each stock, and (3) minimization of regulatory and management costs. The primary management measure used to achieve these objectives is the requirement that scallops harvested must, on average, meet a standard count of no more than 30 meats per pound. When the FMP was developed it was believed that scallops grew at a constant rate and upon reaching an age of four years (harvestable age), sufficient growth had occurred to allow the scallops to be harvested consistent with the 30 meat count standard and the objectives of the FMP. However, recent studies show that during the fall months of the fourth year, when scallops have reached harvestable age, there is a significant loss in meat weight due to spawning activity. This meat weight loss is not regained until late winter when the spawning season is over. The loss in meat weight during the fall months results in significantly fewer scallops of harvestable age that can meet the 30 meat count standard. This results in postponed and foregone benefits to harvesting vessels which cannot profitably harvest enough 30 meat count scallops in the fall because of spawning effects and cannot enter the fishery after the spawning season because of adverse winter weather conditions. Thus, the incentive for non-compliance with the meat count standard in the fall is very high. The fluctuation in meat weight due to spawning was not anticipated in the original FMP and the Council believes that non-compliance with the meat count standard due to spawning is contrary to the objective of the FMP.

The purpose of Amendment 2 is to refine the operative measure to achieve a better balance between resource conservation and regulatory costs during the spawning season. Amendment 2 promotes compliance by making the standard better conform to natural conditions encountered in the fishery. Amendment 2 (1) specifies a 10 percent increase in meat count standard during October, November, December, and January, the primary period when

spawning causes the reduction in individual meat weight of scallops which have reached harvestable age; and (2) provides a framework regulatory mechanism to change the magnitude and/or the timing of the adjustment of the meat count standard during the spawning season. Amendment 2 will provide regulatory relief to the industry.

Growth curves for sea scallops in the Georges Bank, Mid-Atlantic, inshore Gulf of Maine, and offshore Gulf of Maine resource areas are used to predict the meat counts that are expected to occur throughout the year due to the seasonal variation in adductor muscle tissue growth. These data were calculated from growth analyses presented in NMFS/Woods Hole Lab Reference Document 83-35, and were done with particular reference to the Georges Bank population. Based upon these analyses, seasonal adjustments in the meat weight-at-age growth curves were obtained by assuming that the adjusted meat weights are 5 percent greater than the average predicted weights during the months of April through September; 20 percent less during October, the primary spawning month; and 12 percent less during November through March. Although the actual onset of sea scallop spawning in resource areas other than Georges Bank may vary somewhat around the October 1st date, the Council has concluded that the analyses are representative of growth patterns throughout the range of the sea scallop fishery. In all cases, the Council's approach to accounting for the discrepancies between actual and predicted meat weights over the critical months when the three year olds (four year olds in the Gulf of Maine) are recruiting to the fishery is to adjust the management standard for the difference between the average predicted meat count and the assumed value during the months of October through January. The calculated monthly differences are 20 percent during October and 12 percent during November through January. Based upon these values, the Council believes that it is appropriate to adjust the management standard upward by 10 percent from October through January. Further adjustments to the standard during the spawning season would be achieved by a framework mechanism triggered by new and significant scientific information on the spawning phenomenon.

The meat count management standard is redefined as follows: The number of scallops in a one-pound sample (on average) must be 30 or less throughout the year, and may be 10 percent higher; i.e., 33 or less from October through

January. Additionally, the magnitude and timing of the adjustment during the spawning season may be changed within defined parameters, based on new and significant information about the spawning phenomenon and its associated meat weight loss. Currently, data collection is underway to augment our understanding of the seasonal variation in meat weight due to spawning. Accordingly, as new information is developed that might affect either the magnitude or timing of the seasonal adjustment, the Council will recommend a modification to be implemented by the Regional Director.

The proposed seasonal adjustment allows harvest during the fall, by a larger number of smaller vessels, of scallops which otherwise would be taken during the winter, by a smaller number of larger vessels that can operate during winter weather conditions. If there were no seasonal adjustment (no-action alternative), the scallops whose harvest is postponed from fall to winter would, by that time, have grown further and be of somewhat larger weight and greater value. While the seasonal adjustment prevents the realization of this somewhat larger value, it does allow more vessels to harvest these scallops, and provides steadier revenue and employment to the industry.

The proposed seasonal adjustment is the preferred management alternative because: (1) It still achieves the objectives of the FMP (the long-term increased revenue associated with the postponement of harvest inherent in the no-action alternative, was not included in the original calculations in the FMP); (2) fishing effort on the recruiting year class can proceed normally, uninhibited by the spawning phenomenon in meat weight; (3) landings will increase by 434,000 pounds and exvessel revenues by \$2.2 million (consumer expenditures by \$2.8 million) during a seasonal low point in October-January 1988-89; (4) the decrease in revenue over eight years that would result from the proposed adjustment, relative to the no-action alternative with full compliance, would be \$5.3 million exvessel (\$9.1 million retail), which is only a 0.5 percent reduction in revenues; (5) the entire dredge industry is capable of fishing and reaping the benefits of this rule in the fall, compared to the limited number of boats able to fish in winter weather, which currently harvest these scallops after the spawning season; and (6) the amendment provides for greater vessel safety in the Atlantic sea scallop fishery consistent with the intent of section

303(a)(6) of the Magnuson Act, as amended by Pub. L. 99-659.

In regard to item (4), the Council is aware that no action may result in greater non-compliance, because legitimate four year old scallops have lost weight during the spawning season, resulting in these small scallops being caught anyway. This noncompliance jeopardizes the achievement of the expected benefits which accompany no action. Accordingly, if no action results in only a 1 percent loss in expected value through non-compliance, the benefit-cost relationships for the proposed action turns positive. The expected benefits will be more readily achieved with the proposed action.

This proposed rule drops as redundant the requirement in the Council's proposal that the Regional Director obtain the concurrence of the Council in making a meat count adjustment and also makes minor technical changes to the regulations by changing all references to the fishery conservation zone (FCZ) to the exclusive economic zone (EEZ), in accordance with the 1986 amendments to the Magnuson Act, and clarifying the definition of the term Land.

Classification

Section 304(b)(3) of the Magnuson Act requires the Secretary of Commerce to publish regulations proposed by the Council before he determines that the amendment to be implemented by the rule is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the information, views and comments received during the comment period.

The Council prepared an environmental assessment (EA) for Amendment 2 and concluded that there will be no significant impact on the environment as a result of this rule. A copy of the EA may be obtained from the Council at the address above.

The Administrator of NOAA determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

Price changes will be insignificant. Administrative, enforcement, and paperwork and recordkeeping

requirements will remain unchanged; thus there are no impacts on Federal, State, or local government agencies. Employment impacts are expected to reflect predicted changes in revenues. The seasonal adjustment should have no effect on competition, investment, or innovation in the fishery; however, productivity will obviously be higher during October through January with the seasonal adjustment.

The proposed rule will allow both large and small vessels to land more scallops in the fall. If no action is taken, and these scallops are landed in the winter, they will not be landed by smaller vessels which are unable to operate in winter weather (14.9 percent of dredges are considered small). NMFS has issued 1,110 permits to scallop fishing vessels as of December 1984 (all considered small entities). However, only 54 percent of these vessels landed some sea scallops and only 20 percent were considered full-time vessels (based on 1983 data; Report on the Status of the Sea Scallop Fishery, January 1985). About 346 vessels landed sea scallops in 1986 (200 of them were scallop dredges). The average impact of this rule on all 346 vessels would be +\$6,376 in 1988 compared with an average gross revenue of \$280,206 annually (1986). These vessels will experience an average loss in discounted revenue per vessel of \$15,373 over the next eight years.

It is expected that all vessels operating in the fishery will be affected, as described above for the aggregate, in the same way, because all vessels are capable of fishing in the fall. The two major user groups (large scallop dredges in New England and the Mid-Atlantic) decrease their activity from the October-January period to the February-March period, presumably due to weather conditions. For instance, large New England dredges, the most important group in terms of landings, show a decline from 135 active vessels in October-January to 102 vessels during February-March. Thus, this proposed rule will increase landings in the fall and will benefit more vessels, whereas no action will allow those landings to be made in the winter by a limited number of vessels. Small New England dredges and other gear (scuba) operate in the Gulf of Maine during the winter. It is clear that these two groups take scallops almost as much during February-March as they do during October-January. There should be no impact on these two groups either with or without this proposed rule, because the same number of vessels are fishing during both periods. New England trawls (large and

small) illustrate a pattern similar to that for the major groups, with declining landings and number of vessels during the winter. Mid-Atlantic trawls, on the other hand, show dissimilar patterns; small trawls have virtually no activity during fall or winter, while larger trawls show proportionately lower landings, but more vessels, during winter, indicating a bycatch fishery. In North Carolina, both dredges and trawls land scallops only in the fall or the October through January period. No differential effects should occur relative to competitive position, cash flow and liquidity, or ability to remain in the market. There will be no change in paperwork and recordkeeping requirements.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of the order.

This rule does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent, to the maximum extent practicable, with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: April 12, 1988.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries.

PART 650—[AMENDED]

For the reasons set out in the preamble, 50 CFR Part 650 is proposed to be amended as follows:

1. The authority citation for 50 CFR Part 650 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 650.2, the definition of *Fishery conservation zone (FCZ)* is removed; the definition of *Land* is revised; and a new

definition is added in alphabetical order, to read as follows:

§ 650.2 Definitions.

Exclusive economic zone (EEZ) means the zone established by Presidential Proclamation Number 5030, dated March 10, 1983, and is that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Land means to begin offloading fish, to offload fish, or to enter port with fish.

§ 650.7 [Amended]

3. In § 650.7(m), the initials "FCZ" are revised to read "EEZ".

4. Section 650.20 is revised to read as follows:

§ 650.20 Meat-count and shell height standards.

(a) Except as provided in paragraph (b) of this section, the meat count for shucked Atlantic sea scallops must not exceed 30 meats per pound; the corresponding minimum shell height is 3½ inches (89 mm). The Regional Director may temporarily adjust the meat count and shell height standards in accordance with the procedure and criteria provided in § 650.22.

(b) The meat count standard in paragraph (a) of this section, will be adjusted upward by 10 percent during the months of October through January each year, to account for the natural reduction of meat weight during and after the spawning season. The corresponding minimum shell height will not be adjusted. The Regional Director may act to change the adjustment to the meat count standard during the spawning period, as set forth in the procedures and criteria of § 650.24.

5. A new § 650.24 is added to read as follows:

§ 650.24 Adjustment of meat count standard.

(a) *Change to adjustment of standard under § 650.20(b).* (1) The Council may request that the Regional Director implement a change in the meat count specified in § 650.20(b), if he makes the findings required by paragraph (b) of this section after considering the information specified in paragraph (c) of this section.

(2) The meat count standard adjustment specified in § 650.20(b) is limited to a magnitude of up to 30 percent greater than that specified in § 650.20(a); limited to a time period of up to 6 months; and constrained to begin no earlier than September 1.

(3) Following a request by the Council for an adjustment, the Regional Director

(i) Will provide for public input by holding a hearing in conjunction with the Council meeting at which the matter is discussed; and

(ii) Will take into consideration comments from the public and information regarding the enforcement and administrative implications of any change in the process of formulating its recommendations.

(b) *Criteria.* (1) New scientific information significantly changes the information contained in the FMP respecting sea scallop growth and/or spawning activity;

(2) The proposed adjustment is within the ranges of period, starting date and magnitude set forth in paragraph (a)(2) of this section; and

(3) The proposed adjustment is consistent with the management objectives of the FMP.

(c) *Sources of information.* The Regional Director will consider all available resource and assessment information, especially the most recently completed survey and assessment, when preparing any report or recommendation under this section. The Regional Director will also consider reports and records maintained by fishermen and made available as a part of the fishery statistics program, other fishery statistics, and any other available information which increases understanding of prevailing conditions

of the stock, the fishery, and the industry.

(d) Any change in the adjustment for spawning implemented under this section will become the operative standard for succeeding years unless changed again by the process set forth in this section.

[FR Doc. 88-8397 Filed 4-13-88; 2:40 pm]
BILLING CODE 3510-22-M

50 CFR Part 683

Western Pacific Bottomfish and Seamount Groundfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the Western Pacific Fishery Management Council (Council) has submitted Amendment 2 to the Fishery Management Plan for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP) for review by the Secretary of Commerce (Secretary) and is requesting comments from the public on the amendment. Copies of the amendment may be obtained from the Council at the address below.

DATE: Comments on the plan amendment should be submitted by June 10, 1988.

ADDRESS: Send comments to E.C. Fullerton, Regional Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, CA 90731. Copies of the amendment are available from the Council at 1164 Bishop Street, Suite 1405, Honolulu, Hawaii 96813.

FOR FURTHER INFORMATION CONTACT: Kitty Simonds (Executive Director, Western Pacific Fishery Management Council), 808-523-1368.

SUPPLEMENTARY INFORMATION: Amendment 2 was prepared by the Council under the provisions of the Magnuson Fishery Conservation and Management Act, which requires that the Secretary, upon receiving a plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the amendment.

Amendment 2 proposes to establish an access limitation program for the portion of the bottomfish fishery in the exclusive economic zone seaward of the northwestern Hawaiian Islands. The Council has concluded that the fishery is overcapitalized and that a gradual reduction in harvest capacity through the access limitation program is necessary to bring harvest capacity into balance with the productive capacity of the bottomfish stocks. The program provides a system to allow new entry in the future if the Southwest Regional Director finds that the stocks can support additional effort.

Regulations proposed by the Council that are based on this amendment are scheduled to be published within 15 days.

Authority: 16 U.S.C. 1801 *et seq.*
Dated: April 12, 1988.

Ann D. Terbush,
Acting Director, Office of Fisheries
Conservation and Management, National
Marine Fisheries Service.

[FR Doc. 88-8398 Filed 4-13-88; 1:59 pm]
BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 53, No. 74

Monday, April 18, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of International Cooperation and Development; Intent To Enter Cooperative Agreement With Harlan E. Moore Heart Research Foundation

AGENCY: Office of International Cooperation and Development (OICD), USDA.

ACTION: Notice of intent.

Activity: OICD intends to enter into a Cooperative Agreement with the Harlan E. Moore Heart Research Foundation to provide partial support funding for collaborative international agricultural research on Adjusting the Fat Quality of Pork.

Authority: Sec. 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99-198).

OICD announces the availability of funds in fiscal year 1988 (FY1988) to enter into a cooperative agreement with the Harlan E. Moore Heart Research Foundation to collaborate in international research on Adjusting the Fat Quality of Pork. Approximately \$20,000 will be available in FY1988 to the Foundation of conduct collaborative research with Hungary's Central Food Research Institute and Agricultural University's Institute of Animal Production. Assistance will be provided only to the Foundation, which is contributing resources and experience to conduct the research. Funds provided by OICD will be used to supplement costs of supplies, animal processing and analyses, a research technician, and travel. Hungary's Central Food Research Institute and Agricultural University's Institute of Animal Production will support their portion of the research.

Based on the above, this is not a formal request for application. Funds estimated at \$20,000 will be available in FY1988 to support this work. A total of

\$60,000 is anticipated to be provided for this cooperative research effort over a three-year period, subject to the availability of federally appropriated funds in future fiscal years.

Information on proposed Agreement #58-319R-8-027 may be obtained from: Nancy J. Croft, Contracting Officer, USDA/OICD/Management Services Branch, Washington, DC 20250-4300.

Date: April 13, 1988.

Allen Wilder,

Contracting Officer.

[FR Doc. 88-8422 Filed 4-15-88; 8:45 am]

BILLING CODE 3410-DP-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-469-701, C-469-702]

Postponement of Final Antidumping and Countervailing Duty Determinations and Postponement of the Antidumping Duty Public Hearing; Certain Granite Products From Spain

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the respondents in the antidumping duty investigation to postpone the final determination, as permitted by section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)).

Based on this request, we are postponing our final determinations as to whether sales of certain granite products from Spain have occurred at less than fair value, and whether producers or exporters have received subsidies within the meaning of the countervailing duty law, until not later than June 21, 1988. We are also postponing our public hearing in the antidumping duty investigation from April 12, 1988, until May 13, 1988.

EFFECTIVE DATE: April 18, 1988.

FOR FURTHER INFORMATION CONTACT: James Riggs (AD) (200-377-1761), Charles E. Wilson (AD) (202-377-5288), Loc Nguyen (CVD) (202-377-0167), or Barbara E. Tillman (CVD) (200-377-2438), Office of Investigations, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On February 29, 1988, we published a preliminary determination of sales at less than fair value with respect to certain granite products (53 FR 6021). This notice stated that if the investigation proceeded normally, we would make our final determination by May 9, 1988.

On March 10, 1988, the respondents requested a postponement of the final determination in the antidumping duty investigation until not later than June 21, 1988, the 113th day after publication of our preliminary determination, pursuant to section 735(a)(2)(A) of the Act (19 U.S.C. 1673d(a)(2)(A)). These respondents account for a significant proportion of exports of the merchandise to the United States. If exporters who account for a significant proportion of exports of the merchandise under investigation request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, we are postponing the date of the final antidumping duty determination until not later than June 21, 1988.

In addition, on January 28, 1988, we granted the request of petitioner, the Ad Hoc Granite Trade Group, to extend the deadline date for the final countervailing duty determination to correspond to the date of the final antidumping duty determination of the same product, pursuant to section 705(a)(1) of the Act (19 U.S.C. 1671d(a)(1)) (53 FR 2521). Accordingly, we are also postponing the date of the final countervailing duty determination until not later than June 21, 1988.

Public Comment

In accordance with section 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on the preliminary determination in the antidumping duty investigation at 1:30 p.m. on May 13, 1988, at the U.S. Department of Commerce, Room 1414, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Assistant Secretary for Import Administration on May 6. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46 and 355.34, not less than 30 days before the final determinations or, if a hearing is held, within seven days after the hearing transcript is available at the above address in at least 10 copies.

The U.S. International Trade Commission is being advised of these postponements, in accordance with sections 705(d) and 735(d) of the Act. This notice is published pursuant to section 705(d) and 735(d) of the Act.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

April 12, 1988.

[FR Doc. 88-8417 Filed 4-15-88; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Approval of Revision to Mine Site Area and Publication of Revised Coordinates

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of approval of amendment to Deep Seabed Mining Exploration License area and publication of revised coordinates.

SUMMARY: Pursuant to the Deep Seabed Hard Mineral Resources Act and 15 CFR Part 970, and at the request of the licensee, the National Oceanic and Atmospheric Administration (NOAA) on April 5, 1988, approved Revision No. 2 to exploration license USA-1, issued to Ocean Minerals Company (OMCO). On October 7 and 16, 1987, at 52 FR 37490 and 52 FR 38504, NOAA published notice of proposed license area changes to USA-1, USA-2 and USA-3, issued to OMCO, Ocean Management, Inc., and Ocean Mining Associates, respectively, and a brief explanation of how these area revisions would be accomplished.

No comments were received in opposition to approval of the requested revisions. NOAA noticed approval of revisions to USA-2 and USA-3 on March 3, 1988, at 53 FR 6858.

In accordance with the provisions of 15 CFR 970.512 through 970.514, NOAA has approved additional new exploration areas and has modified the license terms, conditions and restrictions (TCR (5)) of license USA-1 to restrict exploration activities so as to reflect the resolution of site overlaps. All other license TCRs will remain in effect.

NOAA published the coordinates for the OMCO exploration license area at 49 FR 47081 on November 30, 1984. The license area for USA-1 is now amended, resulting in a change in operating area from approximately 165,533 square kilometers to approximately 168,841 square kilometers; an addition of approximately 3,308 square kilometers. This amendment is accomplished as follows:

(1) The license area is increased by the addition of the following areas:

Turning points	Latitude (north)	Longitude (west)
(a) 1.....	13°29.0'	131°00.0'
2.....	13°20.0'	131°00.0'
3.....	13°20.0'	132°15.0'
4.....	13°29.0'	132°15.0'
1.....	13°29.0'	131°00.0'
(b) 1.....	13°00.0'	134°00.0'
2.....	12°50.0'	134°00.0'
3.....	12°50.0'	133°50.0'
4.....	12°11.6'	133°50.0'
5.....	12°11.6'	134°04.0'
6.....	12°30.0'	134°04.0'
7.....	12°30.0'	134°15.0'
8.....	13°00.0'	134°15.0'
1.....	13°00.0'	134°00.0'
(c) 1.....	11°30.0'	131°30.0'
2.....	11°00.0'	131°30.0'
3.....	11°00.0'	132°30.0'
4.....	10°30.0'	132°30.0'
5.....	10°30.0'	133°30.0'
6.....	11°00.0'	133°30.0'
7.....	11°00.0'	133°40.0'
8.....	11°40.0'	133°40.0'
9.....	11°40.0'	132°20.0'
10.....	11°30.0'	132°00.0'
1.....	11°30.0'	131°30.0'

(2) The operating area within the original license area is reduced by adding new paragraphs (b) and (c) and TCR (5) of the license terms, conditions and restrictions. TCR (5) now provides as follows:

(5) Freedom of the High Seas Requirements.

(a) The licensee shall conduct its exploration activities in a manner which will not unreasonably interfere with the interests of other nations in their exercise of the freedoms of the high seas, as recognized under general

principles of international law, such as fishing, navigation, submarine pipeline and cable laying, and scientific research (15 CFR 970.520).

(b) In particular, pursuant to the resolution of the deep seabed mining site overlap between Ocean Minerals Company and Yuzhmorgeologia, which is to be implemented as set forth in the agreement of August 14, 1987, between the United States and the U.S.S.R., Ocean Minerals Company shall not engage in exploration, and shall not physically interfere with the exploration or commercial recovery activities of other operators, in the following areas:

Turning points	Latitude (north)	Longitude (west)
(a) 1.....	13°40.0'	128°35.0'
2.....	13°20.2'	128°35.0'
3.....	13°20.2'	130°00.0'
4.....	13°40.0'	130°00.0'
1.....	13°40.0'	128°35.0'
(b) 1.....	12°50.0'	132°15.0'
2.....	12°31.1'	132°15.0'
3.....	12°31.1'	133°30.6'
4.....	12°50.0'	133°30.6'
1.....	12°50.0'	132°15.0'
(c) 1.....	11°50.0'	143°37.9'
2.....	11°00.0'	143°37.9'
3.....	11°00.0'	145°00.0'
4.....	11°50.0'	145°00.0'
1.....	11°50.0'	143°37.9'

(c) In the event of actions which may constitute a breach of the above agreement of August 14, 1987, including the understandings related thereto, the State Department, on its own initiative or at the request of NOAA or any affected licensee, will determine within 60 days after such initiative or request, and in consultation with NOAA and any affected licensee, if such a breach has occurred. If this is determined to be the case, the Department of State and NOAA, in consultation with any affected licensee, will take appropriate action to seek to remedy the breach. If such breach cannot be remedied within 90 days after it is determined a breach has occurred, NOAA shall, in accordance with NOAA regulations, remove or modify restrictions set forth in TCR (5)(b), or take promptly such other action as is appropriate and effective.

Dated: April 12, 1988.

John J. Carey,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 88-8404 Filed 4-15-88; 8:45 am]

BILLING CODE 3510-12-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Negotiated Import Limit and an Adjustment in Charges for a Guaranteed Access Level for Certain Cotton Textile Products Produced or Manufactured in the Dominican Republic

April 12, 1988.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Issuing a directive to the Commissioner of Customs establishing a new limit.

EFFECTIVE DATE: April 12, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); President's February 20, 1986 announcement of a Special Access Program.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota reopenings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: During consultations held between the Governments of the United States and the Dominican Republic, agreement was reached to amend further the current Bilateral Textile Agreements to increase the current limit for cotton textile products in Categories 347/348. The specific limit on Categories 347/348 was extended through May 31, 1992.

It was agreed that if the bilateral agreement which expires on May 31, 1988 is not renewed, this increase will be deducted from the specific limit for categories 347/348 for the succeeding agreement period, June 1, 1988 through May 31, 1989.

Import charges for the period January 1-31, 1988 of 27,763 dozen (13,101 dozen for Category 347 and 14,662 dozen for Category 348) are being made in this directive. In addition, 33,424 dozen will be charged to the guaranteed access level for Categories 347/348 for the period January 1, 1988 through May 31, 1988.

A copy of the bilateral agreement is available from the Textiles Division, Economic Bureau, U.S. Department of State, (202) 647-1998.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile

and Apparel Categories with Tariff Schedules of the United States Annotated (see Federal Register notice 52 FR 47745, dated December 11, 1987), also see 51 FR 21208, published on July 11, 1986; 52 FR 26057, published on July 10, 1987 and 53 FR 2619, published on January 29, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 12, 1988.

Commissioner of Customs,
Department of the Treasury, Washington,
D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on January 26, 1988 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufactured in the Dominican Republic and exported during the period which began on January 1, 1988 and extends through May 31, 1988.

Effective on April 12, 1988, the directive of January 26, 1988 is hereby amended to adjust the current limit for cotton textile products in Categories 347/348 to 477,500 dozen for the period January 1, 1988 through May 31, 1988.

Also effective on April 12, 1988, you are directed to charge the following amounts to the limit established in this directive for Categories 347/348. These charges are for the import period January 1, 1988 through January 31, 1988.

Category	Amount to be charged
347	13,101 dozen.
348	14,662 dozen.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.
[FR Doc. 88-8386 Filed 4-15-88; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Advisory Committee on Integrated Long-Term Strategy; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Advisory Committee on Integrated Long-Term Strategy will meet in closed session on 10 May 1988 in Room 3E869, The Pentagon, Washington, DC.

The mission of the Advisory Committee on Integrated Long-Term Strategy is to provide the Secretary of Defense and the Assistant to the President for National Security Affairs with an independent, informed assessment of the policy and strategy implications of advanced technologies for strategic defense, strategic offense and theater warfare, including conventional war. At this meeting the Committee will hold classified discussions of national security matters dealing with long term strategy and policy.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended [U.S.C. App. II, (1982)], it has been determined that this Advisory Committee meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1982), and that accordingly these meetings will be closed to the public.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 12, 1988.

[FR Doc. 88-8389 Filed 4-15-88; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Proposed Consent Order With Dorchester Master Limited Partnership and Damson Oil Corporation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Consent Order and opportunity for public comment.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") announces a proposed Consent Order with Dorchester Master Limited Partnership ("DMLP") and Damson Oil Corporation ("Damson") for a maximum

amount of \$65 million. The settlement requires DMLP to make minimum payments of \$11 million plus interest, as well as specified percentages of its annual adjusted net income for the next seven years. The percentage of its annual adjusted net income which DMLP must pay ranges up to 50% of all adjusted net income in excess of \$20 million.

DATE: May 18, 1988.

FOR FURTHER INFORMATION CONTACT: Dorothy Hamid, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, SW, RG-30, Washington, DC 20585 (202) 586-8900.

SUPPLEMENTARY INFORMATION:

- I. Introduction
- II. Resolution of Regulatory Issues
 - A. Areas of Dispute
 - B. Determination of Maximum Liability
- III. Determination of Reasonable Settlement Amount
- IV. Terms and Conditions of the Consent Order

I. Introduction

DMLP is a Texas limited partnership formed in 1984. It is the successor to Dorchester Gas Corporation ("Dorchester") by purchase of assets and assumption of liabilities. The acquisition of Dorchester occurred in 1984, after the period of price and allocation controls which are the subject of this Consent Order. Damson is the general partner of DMLP.

On March 19, 1982, the Office of Enforcement of the DOE issued a Proposed Remedial Order ("PRO") on Dorchester, alleging that a Dorchester subsidiary improperly reported the tier classification of certain of its crude oil receipts to the DOE Entitlements Program during the period November 1, 1974 through August 1979.

ERA conducted an intensive audit of Dorchester's compliance with the federal price and allocation regulations. The period audited by the ERA began on November 1, 1974. During the audit, ERA identified instances in which it believed that Dorchester filed reports with the DOE for purposes of the Entitlements Program which demonstrate that Dorchester did not comply with the requirements of the federal price and allocation regulations. The major regulatory area of dispute between DOE and Dorchester, and DMLP as its successor, is whether the activities of Dorchester's refinery subsidiary and its reseller division constituted improper switching of crude oil certifications.

In the lengthy negotiation process leading to this proposed settlement, ERA carefully analyzed the results of the audit, the nature of the alleged regulatory violations, certain factual

matters distinguishing this case from other regulatory enforcement matters pursued by ERA, but, most importantly, the substantially impaired financial condition of DMLP and, therefore, its limited ability to respond to any judgment which might be rendered at the end of lengthy and complex enforcement proceedings.

For the alleged miscertification issues covered by this proposed settlement, ERA calculated the maximum amount that could be obtained in a judgment against DMLP to be \$54,172,000, plus interest from the date of the alleged violations.

The settlement calls for DMLP to pay a maximum of \$65 million. DMLP is required to make minimum payments totalling \$11 million, plus interest on those payments, as well as an escalating percentage of its adjusted net income for the next seven years to discharge in full its obligations under the price and allocation regulations, except for those matters specifically excluded from the agreement.

II. Resolution of Regulatory Issues

A. Areas of Dispute

The disputes resolved by the Consent Order include alleged improper allocation of crude oil certifications and improper reporting of crude oil certifications for purposes of the federal price and allocation regulations. These issues were addressed in a PRO issued to Dorchester on March 19, 1982 and a subsequent Remedial Order issued by the Office of Hearings and Appeals ("OHA") on March 11, 1985.

The propriety of the Remedial Order was argued before the Federal Energy Regulatory Commission in 1985; the case has been pending since that time.

B. Determination of Maximum Liability

ERA calculated the maximum amount for which Dorchester might be liable as a result of the issues discussed above. ERA determined this amount by focusing on the change in Dorchester's entitlements position before and after the alleged misreporting of certifications.¹ As a result of Dorchester's method of accounting for crude oil and crude oil certifications, discussed above, Dorchester's entitlements position changed from that of a net purchaser of entitlements to a net seller of entitlements. ERA

¹ Dorchester and, subsequently, DMLP have maintained throughout the administrative proceedings in this case that Dorchester did not violate applicable regulations because Dorchester maintained overall monthly inventories of crude oil and crude oil certifications which were "in balance."

determined and alleged that the difference between what Dorchester's entitlements payment obligations would have been if it had complied with ERA's view of Dorchester's reporting obligations, and the amount of entitlements payments received by Dorchester as a result of the procedures it followed, constituted an unwarranted benefit equalling the principal amount stated in the Remedial Order.

The proposed settlement also resolves issues related to a Remedial Order issued to Damson and one of its subsidiaries, Doram Energy, Inc. That Remedial Order, and the PRO upon which it was based, alleged that during the period March 1980 through December 1980 Doram and Damson received illegal revenue by reselling crude oil at prices in excess of those permitted by applicable petroleum price and allocation regulations. That Remedial Order alleges that Damson and Doram received illegal revenues totalling \$282,141.69, plus interest.

III. Determination of Reasonable Settlement Amount

In determining a reasonable settlement amount for the allegations of regulatory violations discussed above, ERA reviewed several factors. With respect to the merits, ERA considered that the case against Dorchester is based upon certain allegations and interpretations of applicable regulations which have not previously been adopted in any administrative or judicial determination. ERA also considered in its settlement determination, that the calculation of the Dorchester total principal amount of liability, \$54 million, did not take into account the fact that Dorchester had sold certain volumes of uncontrolled oil at controlled prices.²

A significant factor in arriving at this proposed settlement was ERA's consideration of the current and projected economic condition of DMLP and Damson. DMLP and Damson made available to ERA extensive financial information, including financial statements, tax returns, reserve reports, valuation reports reflecting DMLP's net asset values, both on a going-concern and a liquidation basis, and extensive underlying documents on which the reports, returns and statements were based. As a result of this review, it became apparent to ERA that DMLP would not be capable of satisfying a judgment awarding ERA damages in any

² While realizing entitlements benefits of \$54 million (including reduced obligations and increased revenues) Dorchester also "lost" some \$42 million by selling crude oil at less than its purchase price.

amount approaching the potential maximum liability alleged by ERA. The ERA noted that DMLP had been required by rules and regulations of the Securities and Exchange Commission to write down significantly its oil and gas assets from book value to the present value of estimated future net revenues, and had also incurred substantial losses on the sale of oil and gas properties to reduce debt. DMLP had also been required to report substantial writedowns associated with assets held for sale and had reported substantial losses from operations since the acquisition of Dorchester.

ERA also considered that its judgment, even if obtained, would be a multiple of the DMLP and Damson combined net worth, yet that judgment liability might well be subordinate to the secured lenders. Consideration of all the foregoing factors led ERA to the conclusion that this settlement is the best method for ERA to realize any recovery in this case. Based on all these considerations—the financial condition of DMLP and Damson, the number and complexity of the legal and factual issues, the time and expense required for the government to fully litigate every issue in order to obtain any recovery, and the low potential for any significant recovery with litigation success—ERA concluded that the resolution of these matters for the amounts prescribed in the proposed Consent Order is an appropriate settlement and is in the public interest.

IV. Terms and Conditions of the Consent Order

The Consent Order provides that DMLP will pay a maximum of \$65 million. DMLP will make minimum payments of not less than \$11 million. Of those minimum payments, \$1 million will be a down payment, payable in two installments. The first installment of \$500,000 is to be made on July 1, 1988 with the balance of the down payment due December 1, 1988. Additional minimum payments aggregating \$10 million over and above the \$1 million down payment will be paid by DMLP, plus interest at 8.25% per annum, in accordance with the following schedule:

Date	Principal amount
July 1, 1989.....	\$900,000
July 1, 1990.....	900,000
July 1, 1991.....	1,400,000
July 1, 1992.....	1,400,000
July 1, 1993.....	1,800,000
July 1, 1994.....	1,800,000
July 1, 1995.....	1,800,000

The Consent Order provides that, upon proper notice, DMLP may postpone payment of up to \$400,000 in any year. Fifty percent of the total amount of payments postponed must be paid by July 1, 1996 and the balance of any deferred payments must be paid on July 1, 1997, with interest.

In addition to the foregoing minimum payments DMLP is obligated to pay the DOE certain percentages of its adjusted net income. The percentages of DMLP's adjusted net income which must be paid to the DOE on an annual basis range from 12½% for adjusted net income between \$4 million and \$5 million to 50% for all amounts of adjusted net income including and in excess of \$20 million.

The agreement provides for a limit on DMLP's principal payment obligations to the DOE in the amount of \$65 million.

Damson is liable for any payments required by the Consent Order that DMLP fails to pay.

Excepted from the proposed Consent Order are claims and defenses arising out of compliance with the requirements of the Tertiary Incentive Program (10 CFR 212.78).

Submission of Written Comments

The proposed Consent Order cannot be made effective until the conclusion of the public review process, of which this Notice is a part.

Interested parties are invited to submit written comments concerning this proposed Consent Order to: DMLP Consent Order Comments, RG-30, Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, DC 20585. All comments received by the thirtieth day following publication of this Notice in the *Federal Register* will be considered before determining whether to adopt the proposed Consent Order as a final Order. Any modifications of the proposed Consent Order which significantly alter its terms or impact will be published for additional comment. If, after considering the comments it has received, ERA determines to issue the proposed Consent Order as a final Order, the proposed Order will be made final and effective by publication of a Notice in the *Federal Register*.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the provision of 10 CFR 205.9(f).

Issued in Washington, DC, on April 12, 1988
Chandler L. van Orman,
 Deputy Administrator, Economic Regulatory Administration.

United States Department of Energy,
 Economic Regulatory Administration,
 Consent Order With Dorchester Gas Corporation, Dorchester Master Limited Partnership, Doram Energy, Inc., and Damson Oil Corporation

I. Introduction

101. This Consent Order is entered into between Dorchester Master Limited Partnership ("DMLP"), successor by purchase of assets to Dorchester Gas Corporation ("Dorchester"); Damson Oil Corporation ("Damson"); Doram Energy, Inc. ("Doram") and the Economic Regulatory Administration ("ERA") of the United States Department of Energy ("DOE"). Except as specified in paragraph 501(b), this Consent Order settles and finally resolves all pending and potential civil and administrative disputes, claims and causes of action between DOE and DMLP, Dorchester, Doram and Damson arising out of the federal petroleum price and allocation regulations administered and enforced by DOE and its predecessor agencies during the period August 19, 1973 through January 27, 1981 (all matters settled and resolved by this Consent Order are referred to hereinafter as "the matters covered by this Consent Order"). The matters covered by this Consent Order include, but are not limited to (i) a Proposed Remedial Order ("PRO") issued by ERA to Dorchester on March 19, 1982; (ii) a Remedial Order ("RO") issued by the Office of Hearings and Appeals ("OHA") to Dorchester dated March 11, 1985, *Dorchester Gas Corp.* 12 DOE ¶ 83,034, appeal docketed, No. R085-12-000 (FERC April 22, 1985); (iii) a PRO issued to Doram and Damson on March 9, 1983; and (iv) an RO issued to Doram and Damson dated March 12, 1987, *Doram Energy Inc.*, 15 DOE ¶ 83,024, appeal docketed, No. R087-16-000 (FERC April 6, 1987). The PRO and RO issued to Dorchester allege that Dorchester improperly reported the tier classification of certain of its crude oil receipts to the DOE Entitlements Program during the period from November 1, 1974 through August 1979. The PRO and RO issued to Doram and Damson allege that during the period March 1980 through December 1980 Doram and Damson received illegal revenue by reselling crude oil at prices in excess of those permitted by 10 CFR 212.186, 210.62 and 205.202.

II. Jurisdiction, Regulatory Authority and Definitions

201. This Consent Order is entered

into by DOE pursuant to the authority conferred upon DOE by sections 301 and 503 of the Department of Energy Organization Act ("DOE Act"), 42 U.S.C. 7151 and 7193; Executive Order No. 120009, 42 FR 46267 (September 15, 1977); Executive Order No. 12028, 43 FR 4957 (February 7, 1978); and 10 CFR 205.199j.

202. ERA was created by section 206 of the DOE Act, 42 U.S.C. 7136. In Delegation Order No. 0204-4, the Secretary of Energy delegated the responsibility for administration of the federal petroleum price and allocation regulations, including authority to enter into consent orders on behalf of DOE, to the Administrator of the ERA. Authority to enter into this Consent Order on behalf of the DOE has been appropriately delegated to the agency official executing this Consent Order.

203. For purposes of this Consent Order:

(a) "DOE" means the ERA, the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, the Department of Energy and any predecessor or successor agencies.

(b) "Federal petroleum price and allocation regulations" means all statutory requirements and administrative regulations regarding the pricing and allocation of crude oil and refined petroleum products, including the entitlements and mandatory oil import programs, administered by DOE. For purposes of this Consent Order, the federal petroleum price and allocation regulations include (without limitation) all pricing, allocation, reporting, certification and recordkeeping requirements imposed by or under: the Economic Stabilization Act of 1970, the Emergency Petroleum Allocation Act of 1973, the Federal Energy Administration Act of 1974, and any amendments to those acts; Presidential Proclamation 3279; all applicable DOE regulations codified in 6 CFR Parts 130 and 150 and in 10 CFR Parts 205, 210, 211, 212 and 213; and rules, rulings, guidelines, interpretations, clarifications, manuals, decisions, orders, notices, forms, subpoenas and other pronouncements issued or made by DOE under or with respect to such statutes or regulations.

(c) "Dorchester" means individually and collectively Dorchester Gas Corporation, Dorchester Master Limited Partnership ("DMLP"), successor by purchase of assets to Dorchester Gas Corporation, and the subsidiaries and affiliates thereof, and the successors of each thereof, and the directors, officers, partners, stockholders, agents,

representatives and employees of each thereof.

(d) "Damson" means individually and collectively Damson Oil Corporation and the subsidiaries and affiliates thereof, and the successors of each thereof, and the directors, officers, partners, stockholders, agents, representatives and employees of each thereof.

(e) "Doram" means individually and collectively Doram Energy, Inc., and the subsidiaries and affiliates thereof, and the successors of each thereof, and the directors, officers, partners, stockholders, agents, representatives and employees of each thereof.

(f) "The period covered by this Consent Order" means the period from August 19, 1973 through January 27, 1981.

(g) Other terms used herein have the same meaning as in the federal petroleum price and allocation regulations, unless the context suggests otherwise.

III. Facts and Determinations

The stipulated facts and determinations upon which this Consent Order is based are as follows:

301. Dorchester and Doram were corporations that engaged in the business of purchasing and reselling crude oil without substantially changing its form during the period covered by this Consent Order. Dorchester and Doram were therefore "resellers" of crude oil, a "covered product," within the meaning of those terms as defined at 10 CFR 212.31, and were subject to the regulations during such period.

302. During the period covered by this Consent Order, Dorchester owned, operated or controlled the operations of one or more refineries and was therefore a "refiner of crude oil" as that term is defined at 10 CFR 211.62.

303. During the period covered by this Consent Order, Dorchester and Doram negotiated and participated in certain crude oil transactions with other firms.

304. During the period covered by this Consent Order, Dorchester was required to submit Refiner's Monthly Reports under the Entitlements Program pursuant to 10 CFR 211.66 (b) and (h).

305. ERA conducted an audit to determine Dorchester's compliance with the regulations during the period covered by this Consent Order. The audit resulted in the issuance of a PRO (Case No. 6A0X00278) and an RO (Case No. HRO-0045) to Dorchester.

306. ERA conducted an audit to determine Doram's and Damson's compliance with the regulations during

the period covered by this Consent Order. The audit resulted in the issuance of a PRO (Case No. 640X00450) and an RO (Case No. HRO-0149) to Doram and Damson.

IV. Terms and Conditions

401. In full and final settlement of all matters covered by this Consent Order, and in lieu of all other remedies which have been or might be sought by the DOE against Dorchester, DMLP, Damson and Doram for such matters under 10 CFR 205.199j or otherwise, DMLP agrees to payment in the manner specified in the paragraphs below. Payments shall be by wire transfer, pursuant to directions to be provided to DMLP by DOE. If DMLP shall fail to make any payment required pursuant to this Consent Order, then Damson shall be held liable to the same extent DMLP is liable for such payment.

402(a). *Floor*: Payment of not less than \$11 million will be made by DMLP to the DOE or its designee as provided below.

402(b). *Down Payments*: Of the \$11 million, \$1 million will be paid as follows:

July 1, 1988.....	\$500,000
December 1, 1988	\$500,000 additional

402(c). *Additional Minimum Payments*: DMLP will pay to the DOE the following additional minimum payments (the "Additional Payments") aggregating \$10 million over and above the \$1 million provided in paragraph 402(b):

July 1, 1989.....	\$900,000
July 1, 1990.....	900,000
July 1, 1991.....	1,400,000
July 1, 1992.....	1,400,000
July 1, 1993.....	1,800,000
July 1, 1994.....	1,800,000
July 1, 1995.....	1,800,000

Provided, however, that DMLP may, at its election, by 30 days' notice to the DOE, postpone payment of up to \$400,000 in any year, such postponed payment or payments to be payable 50% on July 1, 1996, and 50% on July 1, 1997, with interest (as set forth in paragraph 402(i)) to the date of payment.

402(d). *Participation payments*: In addition to the Additional Payments provided for in paragraph 402(c), adjusted net income participation payments (hereinafter "Participation Payments") shall be paid, if and to the extent required by the formula set forth below, by DMLP to the DOE on July 1, 1989, 1990, 1991, 1992, 1993, 1994 and 1995, each of such dates being

denominated a "Calculation Date". Such Participation Payment on each such calculation date will consist in each case of an amount equal to DMLP's adjusted net income (as defined in paragraph 402(e) and Exhibits thereto) for the year ending on the preceding December 31, multiplied by the applicable participation percentage set forth below.

The participation percentages shall be as follows:

- 12½%—Adjusted net income from \$4 million to \$4,999,999.99;
- 22½%—Adjusted net income from \$5 million to \$9,999,999.99;
- 32½%—Adjusted net income from \$10 million to \$14,999,999.99;
- 42½%—Adjusted net income from \$15 million to \$19,999,999.99;
- 50%—Adjusted net income on amounts including and in excess of \$20 million.

In calculating Participation Payments, the following loss carryforward provision shall apply. To the extent that DMLP realizes negative Adjusted Net Income in any two consecutive fiscal years aggregating more than \$4 million, the amount by which the aggregated negative Adjusted Net Income exceeds \$4 million ("Loss Carryforward") may be carried over to the two succeeding years following the consecutive loss years. The Loss Carryforward may be used to offset positive Adjusted Net Income, if any, in the two succeeding years, but may not be used to reduce Adjusted Net Income below zero. The amount of the Loss Carryforward to the second succeeding year shall be reduced by any Loss Carryforward used to offset Adjusted Net Income in the first succeeding year following the establishment of the Loss Carryforward. Any Loss Carryforward not so used in the two consecutive years following the establishment of the Loss Carryforward shall not be considered in the determination of Adjusted Net Income for subsequent years.

For purposes of this paragraph, each consecutive two-year period shall be considered independently for determining any Loss Carryforward, i.e., subject to the effects of paragraph 402(f), each consecutive two-year period shall mean 1988 and 1989; 1989 and 1990; 1990 and 1991; 1991 and 1992; 1992 and 1993; and 1993 and 1994.

402(e). *Definitions*: In determining DMLP's Adjusted Net Income, the definitions and accounting procedures annexed hereto as Exhibits A, B, and C and made a part hereof shall conclusively apply.

402(f). *Change in fiscal year*. If DMLP shall change its fiscal year from the

current calendar year basis, or similarly if following a Business Combination as defined in Exhibit C, the successor firm's fiscal year is other than a calendar year, then the following shall apply: (a) The provisions of paragraph 492(b) and paragraph 402(c) shall remain unchanged; (b) the Calculation Dates in paragraph 402(d) shall, as required, be changed to dates six months after the end of each fiscal year, except that for that particular fiscal year that includes December 31, 1994, the Calculation Date shall remain July 1, 1995; (c)(i) for the transition year to a non-calendar fiscal year, the participation payment provided for in paragraph 402(d) shall be calculated by taking the Adjusted Net Income for the period from the close of the previous full fiscal year to the opening date of the new fiscal year, and multiplying such Adjusted Net Income by the applicable participation percentages set forth in paragraph 402(d), and multiplying the resulting amount by a fraction the numerator of which is the number of days in the calculation period and the denominator of which is 365, and (c)(ii) for the fiscal year including December 31, 1994, the participation payment shall be calculated by taking the Adjusted Net Income for the period from the beginning of the fiscal year including December 31, 1994, multiplying this amount by the applicable participation percentages in section 402(d), and multiplying the resulting amount by a fraction the numerator of which is the number of days in the calculation period and the denominator of which is 365; and (d) the transition period shall be considered as a separate period for the purpose of determining whether a Loss Carryforward exists, and the aggregate loss including the transition period and the full fiscal year preceding or succeeding the transition period shall be required to exceed an amount equal to (i) the sum of 365 plus the number of days in the transition period, (ii) divided by 730, (iii) multiplied by \$4 million.

402(g). *Access to records*. DMLP will provide to the DOE 45 days prior to each Calculation Date a complete set of its audited financial statements for the preceding fiscal year end, or the audited financial statements for any successor firm resulting from a Business Combination as defined in Exhibit C of this Consent Order. DMLP will also provide to the DOE at the same time a summary calculation sheet applying the formula, and all supporting schedules, relevant to the Adjusted Net Income calculations specified in Exhibits A, B, and C. Notwithstanding the above, the DOE at all times during the term of this Consent Order reserves the right to

review the books and records of DMLP or any successor firm during normal business hours and upon prior written notice.

402(h). *Split year*. If there is a Business Combination as defined in Exhibit C to the Consent Order, Adjusted Net Income for the year of the combination shall be calculated using the definitions in Exhibits A and C for the portion of the fiscal year preceding and the portion of the fiscal year following the effective date of the Business Combination, respectively, and the results so calculated shall be added for the purpose of determining the Participation Payment, if any, due to the DOE in accordance with paragraph 402(d) of this Consent Order.

402(i). *Interest*: Interest at the rate of 8.25% per annum shall accrue and be paid on the then total unpaid balance of the down payments specified in paragraph 402(b) (\$1 million) and the Additional Payments specified in paragraph 402(c) (\$10 million), but not on the Participation Payments. Such interest payments as accrued shall be paid on the due date of each Additional Payment specified in paragraph 402(c). Interest due in accordance with the above shall be calculated from the date thirty (30) days after the effective date of this Consent Order until the date of payment.

With respect to the Participation Payments due and payable on each Calculation Date, interest at the then prime rate as published in the *Federal Reserve Bulletin* shall accrue and be paid on any Participation Payment balance remaining unpaid for thirty (30) days beyond the respective Calculation Date.

402(j). *Acceleration*: Acceleration of payments made pursuant to paragraphs 402(b) and 402(c) may be made at the election of DMLP without penalty, but any amount accelerated shall be credited to DMLP for purposes of calculating its Adjusted Net Income and DOE's participation therein only in the year such payment would have been due pursuant to the schedule set out in paragraph 402(c).

402(k). *Term of agreement: Cap for all payments*: The term of this Consent Order will expire on the earlier of (i) the date on which the last payment pursuant to paragraph 402(c) is made but in no event prior to July 1, 1995, or (ii) the date on which DMLP has paid to the DOE a total of \$65 million, exclusive of interest payments, provided, however, that in the event of DMLP's bankruptcy, the DOE's claim shall be reduced to \$11 million plus accrued interest (less all prior principal

payments made pursuant to paragraphs 402(b) and 402(c)).

V Issues Resolved

501(a). With the exception of proceedings related to the PRO's and RO's identified in Paragraphs 305 and 306, Dorchester, DMLP, Doram and Damson warrant that there is no litigation pending against the DOE initiated by or participated in by Dorchester or Doram which in any way relates to or arises out of the Federal Petroleum Price and Allocation Regulations or related claims arising under the Freedom of Information Act, as amended, 5 U.S.C. 552 ("FOIA"). Dorchester, DMLP, Doram and Damson hereby agree to release any and all claims, demands, liabilities or causes of action that Dorchester, DMLP, Doram or Damson have asserted or might be able to assert against DOE, and any employee of DOE, in any manner related to compliance with the Federal Petroleum Price and Allocation Regulations governing crude oil and other covered products during the period covered by this Consent Order.

501(b). Claims, counterclaims, cross-claims, third-party claims and defenses related to or arising out of compliance with the requirements of the Tertiary Incentive Program (10 CFR 212.78) are specifically exempted from the matters covered by this Consent Order.

502(a). Compliance by Dorchester, DMLP, Doram and Damson with this Consent Order shall be deemed by DOE to constitute full compliance by Dorchester, DMLP, Doram and Damson for all civil purposes with the Federal Petroleum Price and Allocation Regulations for the matters covered by this Consent Order. In consideration of performance by DMLP and Doram under this Consent Order, DOE hereby releases completely and for all purposes all administrative and civil judicial claims, demands, liabilities, or causes of action, specifically including claims for civil penalties and including all issues and claims raised by DOE in the PRO issued to Dorchester on March 19, 1982 (Case No. 6A0X00278), the RO issued to Dorchester (Case No. HR0-0045), the PRO issued to Doram and Damson (Case No. 640X00450) and the RO issued to Doram and Damson (Case No. HR0-0149), that it has asserted or may otherwise be able to assert against Dorchester, DMLP, Doram or Damson, before or after the date of this Consent Order, for alleged violations of the Federal Petroleum Price and Allocation Regulations during the period covered by this Consent Order. DMLP within seven days of the effective date hereof, shall notify the Federal Energy

Regulatory Commission that the pending RO appeal proceedings referred to in paragraph 101 hereof have been resolved by this Consent Order and shall request that those appeals be dismissed with prejudice accordingly. DOE will not, except as explicitly provided in paragraph 701 herein, initiate or prosecute any civil matter against Dorchester, DMLP, Doram or Damson with respect to the matters covered by this Consent Order or cause or refer any such matter to be initiated or prosecuted, or directly or indirectly aid in the initiation of any such civil matter.

502(b). Nothing contained herein shall preclude DOE from defending the validity of the Federal Petroleum Price and Allocation Regulations. DOE also reserves the right to initiate and prosecute enforcement actions against any party other than Dorchester, DMLP, Damson and Doram for non-compliance with the Federal Petroleum Price and Allocation Regulations.

502(c). DOE expressly agrees that it will not seek or recommend any criminal fines or penalties against Dorchester, DMLP, Damson or Doram based solely on the information and evidence in its possession at present for the matters covered by this Consent Order; provided that nothing in this Consent Order precludes DOE from exercising its obligations under law with regard to forwarding information of possible criminal violations of law to the appropriate authorities. In addition, the DOE will not otherwise contest Dorchester's, DMLP's, Doram's or Damson's compliance with the Federal Petroleum Price and Allocation Regulations covering crude oil and other covered products during the period covered by this Consent Order. Nothing contained herein may be construed as a bar, an estoppel, or a defense against any criminal action, or against any civil action brought by any purchaser of crude oil, or against any civil action brought under any statute or regulation other than the Federal Petroleum Price and Allocation Regulations. Finally, this Consent Order does not affect or prejudice any private action brought by a third party against Dorchester, DMLP, Doram or Damson or by Dorchester, DMLP, Doram or Damson against any third parties, including any action for contribution, nor may this Consent Order be used to establish, enlarge, or abridge the rights of third parties seeking contribution from Dorchester, DMLP, Doram or Damson or the rights of Dorchester, DMLP, Doram or Damson to seek contribution from third parties.

503. Execution of this Consent Order constitutes neither an admission by Dorchester, DMLP, Doram or Damson nor a finding by DOE of any violation by Dorchester, DMLP, Doram or Damson of any statute or any regulation. DOE has determined that it is not appropriate to seek to impose civil penalties against Dorchester, DMLP, Doram or Damson for the period covered by this Consent Order and the issues resolved by this Consent Order, and DOE expressly agrees that it will not seek any such civil penalties against Dorchester, DMLP, Doram or Damson.

504. Notwithstanding any other provision in this Article V with respect to the matters covered by this Consent Order, DOE reserves the right to initiate an enforcement proceeding or to seek appropriate penalties for newly discovered regulatory violations committed by Dorchester, DMLP, Doram or Damson, but only on the ground that Dorchester, DMLP, Doram or Damson concealed facts relating to such violations. DOE also reserves the right to seek appropriate judicial remedies, other than full rescission of this Consent Order, for any misrepresentation of a material fact made by Dorchester, DMLP, Doram or Damson during the course of the audits or during the course of the negotiations that preceded this Consent Order or upon discovery of information that is materially inconsistent with the information upon which this agreement is based.

VI. Public Disclosure, Recordkeeping and Confidentiality

601. To assist the DOE in the distribution of the payments made pursuant to this Consent Order, DMLP and Damson shall preserve their respective existing records relating to the two proceedings identified in paragraphs 305 and 306, and DMLP shall maintain such records as are necessary to comply with the terms of this Consent Order. Except as otherwise provided in this Consent Order, upon completion of DMLP's compliance with the terms of paragraphs 401 through 402(e), DMLP is relieved of its obligation to comply with the recordkeeping requirements of the regulations relating to the matters settled by this Consent Order.

602. This Consent Order is subject to public disclosure pursuant to the requirements of the FOIA. Dorchester, DMLP, Doram and Damson waive all claims they may have that some or all of the information contained in this Consent Order is exempt from the mandatory public disclosure requirements of the FOIA, is information referred to in 18 U.S.C. 1905, or is

otherwise exempt by law from public disclosure.

603. The DOE will treat any sensitive commercial and financial information obtained from Dorchester, DMLP, Doram and Damson as confidential and proprietary and will not disclose such information unless required to do so by law, including a request by a duly authorized committee or subcommittee of Congress. The DOE will provide Dorchester, DMLP, Doram and Damson with ten (10) days' advance notice, if possible, of any pending disclosure of any such information, unless prohibited or precluded from doing so by law or request of Congress. The DOE will retain information it has acquired from Dorchester, DMLP, Doram and Damson in accordance with DOE's established record retention procedures. Notwithstanding the otherwise confidential treatment afforded such information by the terms of this Consent Order, the DOE will make such information available to the Department of Justice ("DOJ") in response to the request pursuant to DOJ's statutory authority by a duly authorized representative of the DOJ. If so requested by the DOJ, the DOE shall not disclose that such a request has been made. Nothing in this paragraph shall be deemed to waive or prejudice any right Dorchester, DMLP, Doram and Damson may have independent of this Consent Order regarding the disclosure of sensitive commercial and financial information. Notwithstanding this paragraph, DOE may use information and documents obtained from Dorchester, DMLP, Doram and Damson in connection with any investigation, administrative proceeding or judicial proceeding to which DOE is a party.

VII. Contractual Undertaking

701. It is the understanding and express intention of DMLP, Doram, Damson and DOE that this Consent Order constitutes a legally enforceable contractual undertaking that is binding on the parties and their successors and assigns. Notwithstanding any other provisions herein, DMLP, Doram, Damson and DOE each reserves the right to institute a civil action in a appropriated United States District Court, if necessary, to secure enforcement of the terms of this Consent Order, and DOE also reserves the right to seek appropriate penalties and interest for any failure to comply with the terms of this Consent Order. Consistent with departmental policy, DOE will undertake the defense of this Consent Order, upon its becoming effective as a final order, in response to any litigation challenging the Consent

Order's validity in which DOE is named as a party. DMLP, Doram and Damson agree to cooperate with DOE in the defense of any such challenge.

VIII. Final Order

801. Upon becoming effective, this Consent Order shall be a final order of DOE having the same force and effect as a Remedial Order issued pursuant to Section 503 of the DOE Act, 42 U.S.C. 7139, and 10 CFR 205.199B. As required by section 205.199J, DMLP, Doram and Damson each hereby waive their right to administrative or judicial review of this order.

IX. Effective Date

901. This Consent Order shall become effective as a final order of DOE upon notice to that effect being published in the Federal Register. Prior to that date, DOE will publish notice in the Federal Register and in that notice will provide not less than thirty (30) days for members of the public to submit written comments to DOE. DOE will consider all written comments to determine whether to adopt the Consent Order as a final order, to withdraw agreement to the Consent Order, or to attempt to renegotiate the terms of the Consent Order.

X. Communications

1001. Communications or notices to be given by DMLP or Damson to the DOE shall be given by certified or registered mail, return receipt requested, to the following address: Economic Regulatory Administration, Office of Chief Counsel, RG-30, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

or such address as the DOE shall substitute by like notice.

1002. Communications or notices to be given by the DOE to DMLP or Damson shall be given in like manner to the following addresses:

William T. Ouzts, Executive Vice President, Oil & Gas Division, Dorchester Master Limited Partnership, c/o Damson Oil Tower, 396 West Greens Road, P.O. Box 439, Houston, Texas 77210

and

Joel Negrin, Vice President and Co-General Counsel, Damson Oil Corporation, 366 Madison Avenue, New York, NY 10017

or such address as DMLP or Damson shall substitute by like notice.

I, the undersigned, a duly authorized representative of Dorchester Master Limited Partnership, successor by purchase of assets to Dorchester Gas Corporation, hereby agree

to and accept on behalf of DMLP the foregoing Consent Order.

By: Damson Oil Corporation, General Partner
By Joel Negrin,

Vice President, Co-General Counsel.

Date: March 29, 1988.

I, the undersigned, a duly authorized representative of Damson Oil Corporation, hereby agree to and accept on behalf of Damson Oil Corporation the foregoing Consent Order.

Joel Negrin,

Vice President, Co-General Counsel.

Date: March 29, 1988.

I, the undersigned, a duly authorized representative of Doram Energy, Inc., hereby agree to and accept on behalf of Doram Energy, Inc. the foregoing Consent Order.

By: Joel Negrin,

Vice President, Deputy General Counsel.

Date: March 29, 1988.

I, the undersigned, a duly authorized representative of DOE, hereby agree to and accept on behalf of DOE the foregoing Consent Order.

Chandler L. van Orman,

Acting Administrator, Economic Regulatory Administration.

Date: April 4, 1988.

Exhibit A

"Adjusted Net Income" shall mean on an annual basis DMLP's audited net income or net loss for each calendar year period determined in accordance with Generally Accepted Accounting Principles, applied on a consistent basis, and adjusted to include or exclude the following items:

(i) Exclude Depreciation, Depletion and Amortization as reported for such period, including economic limit write-down;

(ii) Exclude all non-cash items of other income and other expense; however, such amounts shall be included in subsequent years to the extent such amounts are received or disbursed;

(iii) Include cash receipts from property sales and assets classified per the December 31, 1987 balance sheet as an Asset Held for Sale and exclude all reported gains or losses on the sale of such assets;

(iv) Include as an expenditure the retirement of Indebtedness, which shall mean for this purpose the payment or prepayment of debt (except for prepayments of Additional Payments, which prepayments are deductible only as provided in paragraph 402(j)) and does not occur upon the refinancing of such debt but only when the refinanced debt is paid or prepaid;

(v) Include as an expenditure capital expenditures required to operate existing oil and gas assets and gas plants in an efficient manner (excluding capital expenditures for primary and exploratory drilling activities) but limited in amount to \$11 million on a cumulative basis during the term of this Consent Order;

(vi) Include any reasonable payments for liabilities accrued per DMLP's December 31, 1987, audited balance sheet but excluding amounts payable to the DOE pursuant to this Consent Order, which payments are included in Exhibit B, part (iii), of this Consent Order and excluding any trade payables associated with the normal operations of DMLP's oil and gas and gas plant assets, and

(vii) Exclude General and Administrative expenses exceeding \$4.6 million in 1988, \$4.3 million in 1989 and \$4.0 million per annum for each year subsequent to 1989, adjusted for increases in the Consumer Price Index as of the year-end at which the particular computation is made.

Nothing herein shall be construed as permitting a deduction for distributions to the General Partner or the Limited Partners, which distributions are hereby specifically defined as non-deductible.

Exhibit B

"*Indebtedness*" shall mean amounts outstanding as of December 31, 1987, pursuant to (i) DMLP's outstanding bank loan agreement dated April 30, 1986, as amended, (ii) DMLP's 8 1/2% Convertible Subordinated Debentures, (iii) any indebtedness created or incurred to effectuate any subsequent refinancing of the indebtedness represented by (i) and (ii) above, and (iv) the amounts payable pursuant to the Consent Order in the matter known as In re: Dorchester Gas Corporation Docket No. RO 85-12-000.

Exhibit C

"*Determination of Adjusted Net Income Assuming Future Business Combination*" shall mean on an annual basis (i) the sum of oil and gas sales, revenue from natural gas processing, interest and other income (excluding non-cash income items; however, such non-cash amounts shall be included in subsequent years to the extent such amounts are received, and there shall be excluded gain on the sale of oil and gas assets, gas plants and Assets Held for Sale), all of which must be specifically identifiable to the DMLP operations, plus (ii) cash receipts from the sale of DMLP's oil and gas assets, gas plants and Assets Held for Sale (classified per the December 31, 1987, balance sheet as an Asset Held for Sale) minus (iii) the sum of lease operating expense,

production and windfall profit taxes (or other similar taxes), costs of natural gas processing, other expenses (adjusted to exclude non-cash charges to operations; however, such non-cash amounts shall be included in subsequent years to the extent such amounts are disbursed), and capital expenditures required to operate existing oil and gas and gas plant facilities in an efficient manner but limited in an amount to \$11 million on a cumulative basis during the term of this Consent Order (excluding capital expenditures for primary and exploratory drilling activities) all of which must be specifically identifiable to the DMLP operation, minus (iv) an assumed General and Administrative expense equal to the following amounts adjusted for increase in the Consumer Price Index as of the year end at which the particular computation is made: \$4.6 million in 1988, \$4.3 million in 1989 and \$4.0 million per year for each year subsequent to 1989, minus (v) an amount equal to the total indebtedness as of the date of the Business Combination, divided by the years (or fractions thereof) remaining on the term of the Participation Payments, adjusted to include any proceeds resulting from the sale of assets included in (ii) above (Adjusted Indebtedness), in which case the amount for subsequent years shall be recalculated to reflect the Adjusted Indebtedness calculated above divided by the years (or fractions thereof) remaining on the term of the Participation Payments, minus (vi) interest expense equal to the percentage of total interest expense of the new combined entity, such percentage being determined at the time of the Business Combination based on the indebtedness which DMLP is contributing to the Business Combination as a percentage of all indebtedness of the combined entity immediately after the Business Combination and minus (vii) reasonable payments for liabilities accrued per DMLP's December 31, 1987 audited balance sheet but excluding amounts payable to the DOE pursuant to this Consent Order, which payments are included in Exhibit B, part (iv), of this Consent Order and excluding any trade payables associated with the normal operations of DMLP's oil and gas and gas plant assets.

A Business Combination shall mean and include a merger, purchase or sale of asset, consolidation or similar transaction in which DMLP is a party.

Nothing herein shall be construed as permitting a deduction for distributions to general or limited partners or to shareholders of a corporation, all of

which are hereby specifically defined as non-deductible.

[FR Doc. 88-8408 Filed 4-15-88; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 88-16-NG]

IGI Resources, Inc.; Application To Amend Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application to amend blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on March 24, 1988, of an application from IGI Resources, Inc. (IGI), a wholly-owned subsidiary of Intermountain Gas Industries, Inc., an Idaho corporation, to amend its blanket authorization to import Canadian natural gas for short-term sales in the domestic spot market. Authorization is requested to import up to 50 Bcf of Canadian natural gas per year for a two-year term beginning on August 1, 1988, the expiration date of its current import authorization.

IGI proposes to submit quarterly reports giving details of individual transactions in the month following each calendar quarter. Quarterly reports filed with the ERA indicate that IGI has imported 3,176 MMcf of natural gas under its current import authorization as of December 31, 1987.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than May 18, 1988.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 100 Independence Avenue SW., Washington, DC 20585, (202) 586-9622

Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667

SUPPLEMENTARY INFORMATION: IGI proposes to purchase the volumes of

natural gas from various individual producers or pipelines for its own account or for others and to resell those imported volumes on the short-term or spot market to purchasers in the U.S. Since IGI intends to utilize existing pipeline facilities for the transportation of the volumes imported, the proposal does not contemplate the construction of any new domestic facilities.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that if the ERA approves this request to amend a blanket import, it may designate a total amount of authorized volumes for the term rather than any annual limit, in order to provide the applicant with maximum flexibility of operation.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protest, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-

9478. They must be filed no later than 4:30 p.m. e.d.t., May 18, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of IGI's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 11, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-8393 Filed 4-15-88; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Petroleum Supply Reporting System (PSRS) Forms

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Solicitation of comments concerning proposed changes to the Petroleum Supply Reporting System Forms.

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden, (required by the Paperwork Reduction Act of 1980), conducts a consultation program to provide the general public with an opportunity to comment on proposed and continuing reporting forms. This program ensures that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, EIA is soliciting comments on the extension of its PSRS forms for three years. The forms which cover petroleum supply and disposition are the "Weekly Refinery Report," EIA-800; "Weekly Bulk Terminal Report," EIA-801; "Weekly Product Pipeline Report," EIA-802; "Weekly Crude Oil Stocks Report," EIA-803; "Weekly Imports Report," EIA-804; "Weekly Crude Watch Report," EIA-806; "Monthly Refinery Report," EIA-810; "Monthly Bulk Terminal Report," EIA-811; "Monthly Product Pipeline Report," EIA-812; "Monthly Crude Oil Report," EIA-813; "Monthly Imports Report," EIA-814; "Monthly Natural Gas Liquids Report," EIA-816; "Monthly Tanker and Barge Movement Report," EIA-817; "Monthly International Energy Agency Imports/Stocks-At-Sea Report," EIA-818; "Annual Refinery Report," EIA-820; and the "Petroleum Facility Operator Identification Survey," EIA-825.

DATE: Written comments must be submitted by May 18, 1988.

ADDRESS: Send written comments to: Audrey E. J. Corley, Office of Oil and Gas, Energy Information Administration, Department of Energy, Mail Stop 2H-058, 1000 Independence Avenue SW., Washington, DC 20585. Telephone (202) 586-1149.

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE PROPOSED FORMS AND INSTRUCTIONS: To obtain additional information or copies of the proposed forms, contact Ms. Corley at the address or telephone number listed above.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Current Actions
- III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93-275), and the Department of Energy (DOE) Organization Act (Pub. L. 95-91), the Energy Information Administration (EIA) is obliged to publish, and

otherwise make available to the public, high-quality statistical data that accurately reflect national and regional petroleum supply activity.

To meet this responsibility, as well as internal DOE requirements that are dependent on accurate data, the EIA conducts statistical surveys that encompass each significant primary petroleum supply activity in the United States.

II. Current Actions

EIA proposes only minor changes and modifications to the forms. These changes will reduce respondent burden and better reflect current industry operations. A change that has been made to all monthly and annual surveys is the addition of a comment field to allow respondents the opportunity to explain any unusual aspects of their company's operations as they relate to the reported data. The purpose of this is to obviate the need for EIA to contact respondents when an unusual value is encountered.

The proposed changes are summarized below:

1. Form EIA-810 (Monthly Refinery Report)
 - a. Eliminate the reporting of beginning-of-month stocks.
 - b. Begin collecting data on inputs and production of naphthenic and paraffinic lubricants.
 - c. Begin collecting data on inputs and production of ethylene, propylene, and butylene separately.
2. Form EIA-812 (Monthly Product Pipeline Report)
 - a. Begin collecting data on movements of Liquefied Petroleum Gases (LPGs) and Liquefied Refinery Gases (LRGs) on a component basis.
3. Form EIA-814 (Monthly Imports Report)
 - a. Begin collecting data on imports into the Virgin Islands.
4. Form EIA-816 (Monthly Natural Gas Liquids Report)
 - a. Eliminate the reporting of beginning-of-month stocks.
 - b. Eliminate the reporting of products other than natural gas liquids.
 - c. Eliminate the reporting of beginning-of-month stocks for fractionators.
5. Form EIA-817 (Monthly Tanker and Barge Movement Report)
 - a. Begin collecting data on movements of Liquefied Petroleum Gases (LPGs) and Liquefied Refinery Gases (LRGs) on a component basis.
6. Petroleum Electronic Data Reporting Option (PEDRO)
 - a. Begin voluntary collection of

petroleum supply data in machine-readable form via electronic transmission.

- b. Provide respondents with error detection and correction capability prior to form submission.

III. Request for Comments

The EIA invites the public to comment on these proposed changes within 30 days of the publication of this notice. The following guidelines are provided to assist in the preparation of responses. When providing comments, please indicate the form(s) to which each comment applies.

As a potential respondent:

A. Do the proposed changes impose an unreasonable burden increase or ask for information not readily available?

B. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

C. Can the data be submitted using the definitions included in the instructions?

D. Can the data be submitted in accordance with the response date specified in the instructions?

E. How many hours, including time for preparation and administrative review, would you require to complete and submit the required form(s)?

F. What is the estimated cost of completing the form(s), including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, development, assembly, equipment, ADP and any other one-time or recurring costs.

G. Estimate the cost in subsequent years of reporting.

H. How can the form(s) be improved? I. Do you know other Federal, State, or local agencies that collect similar data? If yes, specify the agency, the data elements, and the means of collection.

As a potential data user:

A. Can you use data at the levels of detail indicated on the form(s)?

B. For what purposes would you use the data? Be specific.

C. How could the form(s) be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

The EIA is also interested in receiving comments from persons regarding their views on the need for the collection of the information contained in the Petroleum Supply Reporting System Surveys.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB

approval of these data surveys and will become a matter of public record.

Statutory Authority: Secs. 5(a), 5(b), 13(b), and 52 of Pub. L. 93-275, Federal Energy Administration Act of 1974, as amended (15 U.S.C. § 764(a), 764(b), 772(b), and 790(a)).

Issued in Washington, DC, on April 13, 1988.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 88-8409 Filed 4-15-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP88-330-000 et al.]

Natural Gas Pipeline Co. of America et al; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Natural Gas Pipeline Company of America

[Docket No. CP88-330-000]

April 11, 1988.

Take notice that on April 6, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP88-330-000 a request pursuant to §§ 157.205 and 284.223 of the Regulations under the Natural Gas Act for authorization to provide a transportation service for Illinois Power Company (IPC) under the certificate issued in Docket No. CP86-582-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request with the Commission and open to public inspection.

Natural states that it proposes to transport on an interruptible basis up to a maximum of 200,000 MMBtu equivalent of natural gas per day (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS) for IPC from 145 receipt points located in Oklahoma, Texas, offshore Texas, Arkansas, Kansas, Iowa, Illinois, New Mexico, Louisiana and offshore Louisiana to interconnections with IPC located on Natural's Amarillo and Gulf Coast systems. Natural further states that the average daily and annual quantities that it would transport for IPC would be 100,000 MMBtu and 36,500,000 MMBtu equivalent of natural gas, respectively.

Natural indicates that in a filing made with the Commission at Docket No. ST88-2791, it reported that transportation service for IPC

commenced on January 29, 1988 under the 120-day automatic authorization provisions of § 284.233(a). Natural herein proposes to continue this service in accordance with §§ 284.221 and 284.223(2)(b).

Comment date: May 26, 1988, in accordance with Standard Paragraph G at the end of this notice.

Ringwood Gathering Company

[Docket No. CP88-321-000]

April 12, 1988.

Take notice that on March 31, 1988, Ringwood Gathering Company (Ringwood), 4828 Loop Central Drive, Suite 850, Houston, Texas 77081, filed in Docket No. CP88-321-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Plains Resources, Inc. (Plains), under the certificate issued in Docket No. CP86-618-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Ringwood proposes to transport up to 1,600 MMBtu equivalent of gas on a daily basis and up to 273,750 MMBtu equivalent on an annual basis for Plains, a producer of natural gas. It is stated that Ringwood would receive the gas at various existing points in Major County, Oklahoma. It is stated that Ringwood would deliver the gas for Plains' account at an existing interconnection with Williams Natural Gas Company in Garfield County, Oklahoma, and at existing interconnections with Oklahoma Natural Gas Company and Panhandle Eastern Pipe Line Company, both located in Major County, Oklahoma.

It is asserted that the transportation service commenced March 1, 1988, under the automatic authorization provisions of § 284.223(a) of the Commission's Regulations. It is further asserted that no construction of facilities would be required to effect the transportation service. Ringwood proposes to charge Plains a rate of 37.2 cents per MMBtu equivalent as specified in Ringwood's Rate Schedule ITS-1. It is explained that the term of the transportation service would extend through March 1, 1993, and would continue on a month-to-month basis thereafter.

Comment date: May 27, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP99-313-000]

April 12, 1988.

Take notice that on March 25, 1988, Tennessee Gas Pipeline Company (Tennessee), P. O. Box 2511, Houston, Texas, 77252, filed in Docket No. CP88-313-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the replacement of 2,450 feet of existing 6-inch pipe with 2,850 feet of 10-inch pipe near the Town of Lancaster, Massachusetts, all as more fully set forth in the application on file with the Commission and open to public inspection.

In particular, Tennessee states that it currently has a 6-inch pipeline underlying land owned by Digital Equipment Corporation (Digital) near the Town of Lancaster, Massachusetts. It is stated that Digital plans to construct an industrial facility on the lands overlying a portion of Tennessee's existing pipeline. In order to facilitate this construction, Tennessee states that Digital has requested that Tennessee remove 2,450 feet of its existing pipeline and relocate the line in another area of Digital's property. In this regard, Tennessee proposes to install 2,850 feet of 10-inch pipeline along a nearby road. It is stated that Digital has agreed to reimburse Tennessee for all costs associated with removing the existing pipeline and installing the replacement pipeline. Tennessee indicates that the estimated costs to be \$340,160.

Comment date: May 3, 1988, in accordance with Standard Paragraph F at the end of this notice.

4. K N Energy, Inc.

[Docket No. CP88-309-000]

April 12, 1988.

Take notice that on March 23, 1988, K N Energy, Inc. (Applicant) P. O. Box 15265, Lakewood, Colorado, 80215, filed in Docket No. CP88-309-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to construct and operate sales taps for the delivery of gas to end users under the authorization issued in Docket No. CP83-140-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant proposes the construction and operation of sales taps to various end users located along its jurisdictional pipelines. Applicant states that the proposed sales taps are not prohibited by any of its existing tariffs and that the

additional taps would have no significant impact on Applicant's peak day and annual deliveries.

Comment date: May 27, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. Williston Basin Interstate Pipeline Company

[Docket No. CP88-311-000]

April 12, 1988.

Take notice that on March 24, 1988, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CO88-311-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of compression facilities and to transport natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston Basin proposes to construct a compressor station on its system near Glen Ullin in Morton County, North Dakota. Williston Basin explains that the Glen Ullin Compressor Station would be located on its existing 16-inch Cabin Creek transmission line, and consist of three natural gas engine compressor units with appurtenant facilities, miscellaneous piping, valves, and fittings. Williston Basin also states that the Glen Ullin Compressor Station would have a total horsepower of 7,950 HP and would cost about \$4.9 million dollars.

Williston Basin explains that at present its only direct access into Northern Border Pipeline Company (Northern Border) is through the Ft. Buford Compressor Station. It is further explained that Williston Basin under its blanket authority has installed a tap on its existing system and constructed 2.5 miles of 12 $\frac{1}{4}$ inch interconnecting pipeline with Northern Border. These facilities would connect into the proposed Glen Ullin Compressor Station for transportation of natural gas to Northern Border, it is explained.

Williston Basin states that it needs this additional capability to deliver to Northern Border in order to satisfy its anticipated need for long-term access, reliability, flexibility and capacity. Williston Basin further states that it has entered into agreement with Frontier Gas Storage Company (Frontier) and Dyco Gas Marketing (Dyco) wherein Dyco has an option to purchase up to 36,000,000 MMBtu's of natural gas owned by Frontier. The gas is presently stored by Williston Basin for Frontier's account, it is explained. It is further

explained, that the primary delivery point for up to 60,000 MMBtu per day of this natural gas is at interconnections with Northern Border. Williston Basin further states that additional natural gas supplies, including natural gas dedicated to Williston Basin which is not being purchased, as well as undedicated gas supplies produced by independent oil and gas producers that is already connected or is capable of being connected to Williston Basin's system, is available for transportation to Northern Border based upon prevailing market conditions from time to time. Williston Basin alleges that the Glen Ullin facilities would provide the necessary capacity to transport this gas to Northern Border in the most efficient manner.

Williston Basin states that transportation of natural gas to the Glen Ullin facilities would be provided by Williston Basin under the terms of existing Rate Schedules X-9, S-2, T-3, T-4 and any subsequent authorized rate schedule. Williston Basin would receive such gas at its compression facilities, and compress and transport such gas for the shippers account to Northern Border under the terms and conditions of a new Rate Schedule TR-1. Williston Basin proposes an initial charge of 11.721 cents per dekatherm for the proposed service. Williston Basin further states that initially all costs associated with the compression facilities would be recovered in the proposed rate and, therefore, no costs are allocated to Williston Basin's existing customers. Williston Basin states that it reserves the right to request rolled-in treatment of the facilities in future section 4(e) filings.

Comment date: May 3, 1988, in accordance with Standard Paragraph F at the end of this notice.

6. Great Lakes Gas Transmission Company

[Docket No. CP88-310-000]

April 12, 1988.

Take notice that on March 23, 1988, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP88-310-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing transportation of natural gas, on an interruptible basis, for the account of Peoples Natural Gas Company, a Division of UtiliCorp United Inc. (Peoples), a Minnesota distribution company, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Great Lakes would transport for Peoples up to 30,000 Mcf of natural gas per day (Mcf/d) during the summer period (May through November) and up to 100,000 Mcf/d during the winter period (November through April), pursuant to a transportation service agreement dated September 15, 1987. It is further stated that Peoples would purchase natural gas from Canadian suppliers, from a point on the International Border between the United States and Canada, at Emerson, Manitoba (Emerson Receipt Point), where the facilities of Great Lakes interconnect with the facilities of TransCanada PipeLines Limited, to a point where Great Lakes' facilities interconnect with those of Northern Natural Gas Company, a Division of Enron Corporation (Northern Natural), at Carlton, Minnesota (Carlton Delivery Point). The term of the proposed arrangement is to end two years after the effective date of all regulatory approvals deemed necessary to implement the service. Great Lakes proposes a rate for the transportation service which is equal to the 100 percent load factor rate applicable to deliveries in the Western Zone under Great Lakes' existing Rate Schedule T-5 of Great Lakes' FERC Gas Tariff and states that no new facilities are required to provide this proposed service.

It is further stated that Peoples has entered into transportation arrangements with Northern Natural for subsequent transportation of the subject volumes from the Carlton Delivery Point to various points of interconnection between the facilities of Northern Natural and Peoples located in the state of Minnesota.

Comment date: May 3, 1988, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to

intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instance notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-8423 Filed 4-15-88; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Special Research Grant Program Notice 88-3; Subsurface Science Research Grants; Invitation for Applications

AGENCY: Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Energy Research (OER) of the Department of Energy (DOE) announces its interest in receiving applications for Special Research Grants that will support

research in Subsurface science. Research efforts should be directed to developing an improved, long-term understanding of the geochemical, microbiological and hydrologic mechanisms associated with contamination in subsoils and particularly in groundwater. Applications must be directed to state-of-the-art research that contributes to resolving subsurface contamination problems. Applicants should request DOE's Research Initiative Plan (DOE/ER-0344) for added technical detail. Interdisciplinary research in chemical-biological-hydrological interactions and in transport mechanisms that are generic to natural subsurface systems and complex contaminant regimes is of interest. Subsoils, microbial ecosystems at depth and sediment-groundwater regimes are representative of such natural systems.

DATES: To permit timely consideration for award in Fiscal Year 1989, applications submitted in response to this Notice should be received by the DOE in care of DOE's administrative contractor, the Oak Ridge Associated Universities (ORAU) by close of business August 1, 1988.

ADDRESS: Completed applications referencing Program Notice 88-3 and the appropriate section and title in DOE/ER-0344 applicable to the research submission should be forwarded to: U.S. Department of Energy, c/o Oak Ridge Associated Universities, P.O. Box 117 (ATTN: 88-3), Oak Ridge, Tennessee 37831-0117.

FOR FURTHER INFORMATION CONTACT: Mrs. Jean A. Morrow, Division of Acquisition and Assistance Management, ER-64, Washington, DC 20545, (301) 353-5544 or Dr. Frank J. Wobber, Office of Health & Environmental Research, ER-75, Washington, DC 20545, (301) 353-4208.

SUPPLEMENTARY INFORMATION: This notice relates to DOE's five-year Research Initiative Plan (DOE/ER-0344) that describes long-term research that is relevant to DOE needs. The following research areas are a high priority: The geochemistry, microbiology and hydrology of co-contaminant (organic-organic, organic-radionuclide, organic-metal) regimes and new generation models that predict contaminant transport. New and innovative experimentation and predictive models related to the mobilization, immobilization and transport of contaminants in groundwater, and to the microbiology and geochemistry of subsoils and groundwater are of interest. Technologies to characterize the subsurface environment or

subsurface contaminants, or demonstrations of engineered remedial action technologies are not included under this Notice. New or innovative physical, chemical, and biological technologies are of interest if they are part of the experimental design detailed in the application. It is anticipated that \$3M will be available for research grants during Fiscal Year 1989. Additional years of support for this program will be subject to the availability of funds. Information concerning preparation and submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures may be found at 10 CFR Part 605. Application kits, copies of 10 CFR Part 605, and the DOE Research Initiative Plan are available from the ORAU (see above for address). Telephone requests may be made by calling (615) 576-3455 or (FTS) 626-3455. Instructions for preparation of an application and on DOE research interests and priorities are included in the kit. The Catalog of Federal Domestic Assistance Number for this program is 81.049.

Ira M. Adler,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 88-8410 Filed 4-15-88; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Firm Power Allocations Pick-Sloan Missouri Basin Program; Eastern Division

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Notice of Firm Power Allocations to the Townsites of Fort Peck, Montana; Riverdale, North Dakota; and Pickstown, South Dakota.

SUMMARY: In a March 11, 1986, Federal Register notice (51 FR 8360), the Western Area Power Administration (Western) announced plans to allocate firm power to the former Corps of Engineers (Corps) townsites of Fort Peck, Montana; Riverdale, North Dakota; and Pickstown, South Dakota. This action was undertaken on the basis of enactment of Pub. L. No. 99-88. The allocations, however, will be made pursuant to the provisions of the subsequently enacted Pub. L. No. 99-662. Western has considered all public comments received on the March 11, 1986, notice and plans to offer firm power contracts to the three towns. The firm power allocations to the three towns will be subject to adjustment following a test period ending October

31, 1989. The electrical system demand data gathered from meters measuring electric service to each of the three towns during the test period will be analyzed to determine if the initial allocation amounts should be revised to more appropriately reflect the intent of the applicable laws.

FOR FURTHER INFORMATION CONTACT:

Requests for further information may be submitted to the following address: Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box 35800, Billings, Montana 59107-5800.

SUPPLEMENTAL INFORMATION:

The March 11, 1986, Federal Register notice specified that the Supplemental Appropriations Act for fiscal year 1985 (Act of August 15, 1985, Pub. L. 99-88, 99 Stat. 293, 317-18) (Pub. L. 99-88) authorized the Secretary of the Army to transfer all rights, title, and interests of the United States in the townsites of Fort Peck, Montana; Riverdale, North Dakota; and Pickstown, South Dakota, to newly formed municipal corporations serving the inhabitants of those townsites. The townsites previously received, and are presently receiving, project-use power from the Corps. The townsites can continue to receive such project-use power, upon request, for a period not to exceed 3 years from the date of incorporation of such municipal corporations. The authority to allocate power subsequent to the 3-year period was not specifically provided for in the act. Western, therefore, initiated by means of the notice published on March 11, 1986, a public consultation and comment period concerning a proposal to allocate power to the towns which were supplied with project-use power. The March 11, 1986, notice was the first step in establishing allocations pursuant to the general statutory authorities of Western's Administrator.

Normally, Western would not be able to allocate firm power since all of Western's firm power is presently committed under long-term contracts. However, the power that is being furnished by the Corps to the townsites is considered "project-use" power and has not otherwise been marketed as firm power. With the transfer of the townsites from the Corps to municipal corporations, that power will be available for Western to allocate to the towns as firm power.

Section 1123 of the Water Resources Development Act of 1986 (Act of November 17, 1986, Pub. L. 99-662, 100 Stat. 4242) (Pub. L. 99-662) specifically authorized the Administrator of Western to allocate firm power from the Pick-

Sloan Missouri Basin Program to each of the three towns, or to such other preference entity as the Administrator may designate, as a means to continue electrical service to the towns. That act further directed that such allocations shall be in the amounts required to meet loads during specific reference periods prior to the date of the act. The methodology Western will use to make final allocations is generally the same as originally proposed in the March 11, 1986, notice. Western, however, has determined that adequate system demand data was not available for the stated reference periods because of inadequate electrical metering. Adequate metering has now been installed and a test period has been established to develop data upon which the final allocations will be based.

Three meetings were held in July 1987 to give representatives from each of the former Corps townsites the opportunity to discuss their concerns with representatives of Western and the Corps. Those meetings with Riverdale, North Dakota, on July 8th; with Pickstown, South Dakota, on July 9th; and with Fort Peck, Montana, on July 22nd allowed for discussion on all aspects of the impending transfer of responsibilities for the towns' electric service and of future arrangements between Western and the towns.

Allocations

Both Pub. L. 99-662 and Western's March 11, 1986, Federal Register notice describe the criteria for establishing the power allocation to each of the three towns. Western has determined that each town, as a preference entity, qualifies for and therefore will be offered an allocation. The intent of the law and the notice is to establish the amount of the allocation to each town based on the Corps's past deliveries of project-use power to those towns. The notice specified that the allocation would be based on an amount of power equal to each entity's maximum load in the 1985 summer season and the 1985-1986 winter season; however, it was later determined that sufficient load data for these periods were not available.

In an effort to create an approximation of the demand for the 1985 summer and the 1985-1986 winter seasons, Western estimated loads on the basis of actual data which were available for the 1986 summer and 1986-1987 winter season. Western then proposed an allocation of power to each town based upon those estimated values.

In accordance with the March 11, 1986, notice, Western has determined interim seasonal allocations for each town based on each town's estimated peakloads during the 1985 summer season and the 1985-1986 winter season as follows:

Town	Summer season	Winter season
Fort Peck, MT.....	405KW	730KW
Riverdale, ND.....	385KW	548KW
Pickstown, SD.....	536KW	526KW

The above amounts are subject to revision based on information obtained during the test period discussed below.

Test Period

At the July 1987 meetings, the representatives of the three towns expressed concerns that the 1986-87 winter season was inappropriate for determining their power allocation as it would not accurately reflect the towns' actual loads during the reference periods. They stated that 1986-1987 winter season was a mild one and using that season as a basis for the allocation would result in an effective reduction from what the Corps had supplied.

Western addressed the concerns of the towns by suggesting that the allocations be adopted on an interim basis, and the final allocations could be decided subsequent to a test period which began with the installation of demand meters and will conclude at the end of the 1989 summer season; i.e., October 31, 1989. The test period will allow Western to assemble a tabulation of demand readings that may be more representative of the 1985 summer and the 1985-86 winter seasons. The test period demand data should enable Western to adjust the interim allocation to more accurately reflect the amount of project-use power supplied by the Corps.

Environmental Compliance

Western has conducted an environmental analysis of this allocation of power pursuant to the National Environmental Policy Act of 1969, Council on Environmental Quality Regulation, and Department of Energy guidelines (45 FR 20694-20701, as amended). Western's allocation of power will be in the same amounts and generated from the same resource as the project-use power that has been supplied by the Corps. The power will be made available to Western by the

Corps to be allocated to the three towns as firm power. The change is essentially administrative in nature with Western assuming the former Corps responsibilities for supplying power to the three towns. Since there clearly would be no significant environmental impact, the proposed action does not require the preparation of an environmental assessment or an environmental impact statement. Documentation supporting this determination is on file in Western's Billings Area Office.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the proposal relates to nonregulatory services provided by Western. Under 5 U.S.C. 601(2), a proposal with particular applicability is not considered "a rule" within the meaning of the act. Since this proposal is of limited applicability and is being set in accordance with specific regulations and legislation under particular circumstances, Western believes that no flexibility analysis is required.

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

Conclusion

In accordance with Pub. L. No. 99-88 and Pub. L. 99-662, I hereby approve and place into effect the interim allocation of power as specified herein, which includes the process for establishing final allocation amounts as described herein. Upon completion of the Test Period, Western will establish a final allocation for each of the three towns.

Issued at Golden, Colorado, April 7, 1988.

William H. Clagett,
Administrator.

[FR Doc. 88-8380 Filed 4-15-88; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3366-8]

Extension of the Period for Action on a Recommended 404(c) Determination From the Environmental Protection Agency's Region IV Office To Prohibit the Specification or Use of Three East Everglades Wetland Areas as Disposal Sites**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of an extension to the comment period and period for EPA Headquarters action on recommended 404(c) determination.

SUMMARY: On February 16, 1988, a Recommended 404(c) Determination and administrative record was received from EPA's Region IV Office in Atlanta, Georgia requesting that the Assistant Administrator for Water affirm the Regional Administrator's recommendation to prohibit proposed and anticipated rockpiling activities in three wetland areas of East Everglades, Florida pursuant to section 404(c) of the Clean Water Act (33 U.S.C. 1344(c)). At the request of representatives of property owners of two of the three wetland areas, EPA will schedule a consultation meeting during the week of May 2 which is after the current timeline for EPA to complete this 404(c) action. In addition, a representative of the property owners of the third wetland site has recently indicated by telephone that they are also considering requesting a meeting. Providing the involved property owners the opportunity for consultation best serves the 404(c) process by providing EPA with information pertinent to a well informed final action.

In order to provide time for consultation and consideration of the views presented, the time period provided in 40 CFR 231.6 for EPA Headquarters' action on the Recommended 404(c) Determination is being extended until close of business, June 15, 1988. This time extension is made under authority of 40 CFR 231.8.

FOR FURTHER INFORMATION CONTACT: Kirk Start, Team Leader, Elevated Cases Team, Office of Wetlands Protection, 401 M Street, SW, Washington, DC 20460, Mail Code A-104F, (202) 475-8796.

Dated: April 12, 1988.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 88-8408 Filed 4-15-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD**First Federal Savings and Loan Association of Shawnee, Shawnee, OK; Appointment of Receiver**

Notice is hereby given that pursuant to the authority contained in section 5 (d)(6)(A) of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for first Federal Savings and Loan Association of Shawnee, Shawnee, Oklahoma, on April 7, 1988.

Dated: April 12, 1988.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 88-8440 Filed 4-15-88; 8:45 am]

BILLING CODE 6720-01-M

Tri-Cities Savings and Loan Association; Kennewick, WA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Tri-Cities Savings and Loan Association, Kennewick, Washington, on April 7, 1988.

Dated: April 12, 1988.

By the Federal Home Loan Bank Board.

John N. Buckley, Jr.,

Secretary.

[FR Doc. 88-8441 Filed 4-15-88; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM**Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies; Loretto A. Gullede**

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board

of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 4, 1988.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Loretto A. Gullede, Aubrey W. Conway, and Franklin A. Gullede, Jr., trustees, all of Louisville, Kentucky; to collectively acquire an additional 49.7 percent of the voting shares of Shively Bancshares Corporation, Shively, Kentucky, and thereby indirectly acquire Bank of St. Helens, Shively, Kentucky.

Board of Governors of the Federal Reserve System, April 13, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-8374 Filed 4-15-88; 8:45 am]

BILLING CODE 6210-01-M

Southern Bankshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 6, 1988.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Southern Bankshares, Inc., Beckley, West Virginia; to acquire 100 percent of

the voting shares of M & M Financial Corporation, Oak Hill, West Virginia, and thereby indirectly acquire Valley Bank and Trust Company, Bluefield, West Virginia, and Merchants & Miners National Bank of Oak Hill, Oak Hill, West Virginia.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Upbankcorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares of First West Bank of Tempe, Tempe, Arizona. Comments on this application must be received by May 11, 1988.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Lewisburg Bancshares Corporation*, Lewisburg, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Lewisburg Banking Company, Lewisburg, Kentucky. Bank engages only in credit related insurance sold in connection with extensions of credit made by the target bank.

2. *Southside Bancshares Corp.*, St. Louis, Missouri; to acquire at least 25 percent of the voting shares of Bank of Chesterfield, Chesterfield, Missouri, a *de novo* bank.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Alliance Bancorporation*, Seattle, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Alliance Bank, National Association, Seattle, Washington, a *de novo* bank.

Board of Governors of the Federal Reserve System, April 13, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-8375 Filed 4-15-88; 8:45 am]

BILLING CODE 6210-01-M

noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 6, 1988.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Union Bankshares, Inc.*, Morrisville, Vermont; to engage *de novo* in leasing activities pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 13, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-8376 Filed 4-15-88; 8:45 am]

BILLING CODE 6210-01-M

National Life Insurance Company, Phoenix, Arizona, in reinsuring credit life and disability insurance on the sum of payments issued in connection with lease transactions made by Union National Corporation's Bank subsidiaries pursuant to § 225.25(b)(8) of the Board's Regulation Y. The lease transactions involved are nonoperating and full payout leases.

Comments on this application must be received by April 29, 1988.

Board of Governors of the Federal Reserve System, April 13, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-8377 Filed 4-15-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Rural Health Research Centers; Availability of Development Funds

AGENCY: Health Resources and Services Administration, Public Health Service, DHHS.

ACTION: Notice of availability of funds.

SUMMARY: The Office of Rural Health Policy, Health Resources and Services Administration (HRSA), announces that applications are being accepted for a program of grants to develop Rural Health Research Centers. These centers will collect, develop and disseminate current information on rural health and will conduct policy relevant research and analyses of rural health issues of regional or national significance. Awards will be made from funds appropriated under Pub. L. 100-202 (Continuing Resolution for FY 1988). It is anticipated that approximately \$1.1 million will be available to support this grant program for one year.

DATE: To receive consideration, applications must be received by the close of business 60 days after publication, by the Grants Management Officer at the address below.

Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legible dated receipt from a commercial carrier of U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be acceptable as proof of timely mailing.

Union Bankshares, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise

Union National Corp.; Applications To Engage de Novo in Permissible Nonbanking Activities; Correction

This notice corrects a previous Federal Register notice (FR Doc. 88-7706) published at page 11705 of the issue for Friday, April 8, 1988.

Under the Federal Reserve Bank of Cleveland, the entry for Union National Corporation is revised to read as follows:

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Union National Corporation*, Pittsburgh, Pennsylvania; to engage *de novo* through its subsidiary, Union

ADDRESS: Requests for grant application packages should be addressed to: Paul T. Clark, Grants and Audit Resolution Branch, Division of Grants and Procurement Management, Room 13A-27, Parklawn Bldg., 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT:

Requests for technical or programmatic information should be directed to Arlene Granderson, Office of Rural Health Policy, Room 14-22, Parklawn Bldg., 5600 Fishers Lane, Rockville, Maryland 20857. (301) 443-0835.

SUPPLEMENTARY INFORMATION:

Program Objectives

The purpose of this grant program is to support the development of approximately three to five Rural Health Research Centers across the country during 2- to 4-year project periods. Within the limits of their resources, these centers will: (1) Collect, develop, analyze and disseminate current data/information on rural health; (2) conduct applied research, case studies and policy relevant analysis that focuses on the delivery, financing, organization and management of health care services in rural areas; (3) provide a focal point for support from foundations and/or other public and private entities interested in rural research and demonstration activities.

Eligible Applicants

All public and private entities, both non-profit and for-profit, are eligible to apply.

Review Considerations

We will evaluate grant applications on the basis of the following criteria:

- (1) The extent to which project objectives are specific, measurable, realistic, and consistent with the program objectives defined above;
- (2) The quality of the applicant's plan for coordinating project activities;
- (3) The degree to which the applicant demonstrates special expertise in rural health analysis;
- (4) The extent to which the project personnel are qualified for the work required and the applicant organization has adequate facilities and personnel available;
- (5) That the project includes a strong evaluation component;
- (6) That the project will widely and effectively disseminate the results of its efforts; and
- (7) The degree to which the applicant shows evidence of non-Federal financial support for the proposed project activities, both during the project period and after Federal funding is completed.

Executive Order 12372

The Rural Health Research Centers Grant Program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

(The OMB Catalog of Federal Domestic Assistance number is 13.155)

Date: April 6, 1988.

David N. Sundwall,
Administrator, HRSA.

[FR Doc. 88-8381 Filed 4-15-88; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-060-08-4410-08]

Availability of Supplement to Draft Environmental Impact Statement and Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Supplement to Draft Utility Corridor Resource Management Plan/Environmental Impact Statement (RMP/EIS).

The Bureau of Land Management announces the availability of a Supplement to the Draft Utility Corridor (RMP/EIS). In accordance with provisions of 40 CFR 1502.9(c)(2), the Supplement has been prepared to address changes in the proposed action (preferred alternative) determined to be of significant public interest. These changes have been determined to be within the scope of the plan and within the range of alternatives described and analyzed in the Draft RMP/EIS.

The preferred alternative has been changed to allow for state selection of Utility Corridor lands (now withdrawn by PLO 5150): 1. Between the Yukon River and (approximately) the Arctic Circle; and 2. north of Toolik Lake. These two areas include approximately 1.1 million acres of federal land.

A copy of the Supplement to the Draft RMP/EIS will be sent to all individuals, government agencies and groups who have expressed an interest in the Utility Corridor RMP/EIS including all individuals who requested a copy of the Draft RMP/EIS. Only comments specific to this change in the preferred alternative will be considered; comments will be accepted through June 8, 1988. All comments must be sent to M.

Thomas Dean, Arctic District Manager, Bureau of Land Management, 1541 Gaffney Road, Fairbanks, Alaska, 99703-1399.

During the comment period, public meetings on the changes to the preferred alternative will be held in Barrow, Fairbanks, and Stevens Village at times and places to be announced later.

DATE: Comments will be accepted through June 8, 1988.

ADDRESS: Comments should be sent to M. Thomas Dean, Arctic District Manager, Bureau of Land Management, 1541 Gaffney Road, Fairbanks, Alaska 99703-1399.

FOR FURTHER INFORMATION OR COPIES

CONTACT: Dave Ruppert, Project Manager, Bureau of Land Management, Arctic District Office, 1541 Gaffney Road, Fairbanks, Alaska 99703-1399. Telephone Number: (907) 356.5182.

Date: April 11, 1988.

Michael J. Penfold,
State Director.

[FR Doc. 88-8382 Filed 4-15-88; 8:45 am]

BILLING CODE 4310-84-JA

[NV-930-08-4212-14; N-32355]

Realty Action; Competitive Sale of Public Land in Elko County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Amended notice of realty action.

SUMMARY: The original notice published in the Federal Register on Tuesday, May 5, 1987, Vol. 52, No. 86, page 16460, identified a 6.54 acre parcel of public land as suitable for sale under Section 203 of the Federal Land Policy and Management Act of October 21, 1976. The notice segregated the land from all other forms of appropriation under the public land laws, including the mining laws. This notice extends the segregation for an additional 270 days. This segregation will terminate on October 31, 1988, or when patent is issued. The extension of this segregation is required in order to protect the parcel which has received an acceptable bid, but has not yet been patented.

Date: April 8, 1988.

Rodney Harris,
District Manager.

[FR Doc. 88-8437 Filed 4-15-88; 8:45 am]

BILLING CODE 4310-HC-M

National Park Service**Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission**

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission will be held at 10:30 a.m. (PDT) on Saturday May 14, 1988, at the West Marin School, Point Reyes Station, California.

The Advisory Commission was established by Public Law 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
 Ms. Amy Meyer, Vice Chair
 Mr. Ernest Ayala
 Mr. Richard Bartke
 Dr. Howard Cogswell
 Brig. Gen. John Crowley, USA (ret)
 Mr. Margot Patterson Doss
 Mr. Neil D. Eisenberg
 Mr. Jerry Friedman
 Mr. Steve Jeong
 Ms. Daphne Greene
 Ms. Gimmy Park Li
 Mr. Gary Pinkston
 Mr. Merritt Robinson
 Mr. R.H. Sciaroni
 Mr. John J. Spring
 Dr. Edgar Wayburn
 Mr. Joseph Williams

The main agenda items at this public meeting will be the Point Reyes resource management program, review of Point Reyes erosion control projects, landslide causation and its relationship to grazing, a Point Reyes Committee Report and Range Management Guidelines, a status report on the Request for Proposals of Pierce Point Ranch, and a Superintendent's Report.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the aforementioned public meeting. Those not wishing to appear in person may submit written statements to the General Superintendent of the Golden Gate National Recreation Area on these items. Statements will be accepted until May 31, 1988.

The meeting is open to the public. Persons wishing to receive further information on this meeting or who wishes to submit written statements

may contact the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123, telephone (415) 556-4484.

This meeting will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript is available after May 27, 1988. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California, 94123.

Date: March 16, 1988.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 88-8372 Filed 4-15-88; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE**Consent Decree in Action To Enjoin Discharge of Air Pollutants; Conoco, Inc.**

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on March 29, 1988, a consent decree in *United States v. Conoco, Inc.*, Civil Action No. 88-517A, was lodged with the United States District Court for the Western District of Oklahoma. The consent decree establishes a compliance program for Conoco's Ponca City facility to bring the facility into compliance with the Clean Air Act, 42 U.S.C. 7401 *et seq.*, and the performance standards regulations relating to the discharge of pollutants from petroleum refineries and requires payment of a civil penalty of \$250,000.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States v. Conoco, Inc.*, D.J. Ref. No. 90-5-2-1-1133.

The consent decree may be examined at the office of the United States Attorney, Western District of Oklahoma, United States Courthouse and Federal Office Building, 200 Northwest 4th Street, Room 4434, Oklahoma City, Oklahoma 73102; at the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; and the Environmental Enforcement Section, Land and Natural Resources

Division, Department of Justice, 10th Street and Pennsylvania Avenue NW., Washington, DC 20530. In requesting a copy, please enclose a check in the amount of \$2.10 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-8394 Filed 4-15-88; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Air Act; Apex Orchards, Inc.

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a Consent Decree in *United States v. Apex Orchards, Inc.*, Civil Action No. 87-871 LKK, was lodged on March 15, 1988 in the United States District Court, Eastern District of California. The Complaint in this action sought civil penalties from Apex Orchards, Inc. and injunctive relief from DEI-COAGRI, Inc. for violation of the Clean Air Act, (the "Act") 42 U.S.C. 7401, *et seq.* Specifically, Apex Orchards, Inc. was charged with operating a biomass-fired boiler for co-generation of electricity in Kern County, California without a prevention of significant deterioration (PSD) permit. DEI-COAGRI, Inc. was charged with assuming the liabilities of Apex Orchards, Inc. for operation of the said boiler. The proposed Consent Decree requires Apex to pay a civil penalty of \$55,000. The Consent Decree also requires DEI-COAGRI to obtain an authority to construct permit from the Kern County Air Pollution Control District which would limit the emissions from the boiler to levels below those which would require the boiler to operate with a PSD permit, and to comply with those limits.

After the requisite Federal Register Notice is published, the time period for comments has run, and the comments, if any, have been evaluated, the Court will be further advised as to any action which may be required by the Court at that time. During the pendency of the Federal Register Notice comment period under 28 CFR 50.7, no action is required of the Court.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC

20530, and should refer to *United States v. Apex Orchards, Inc.*, D.J. Ref. No. 90-5-2-1-1010.

The Consent Decree may be examined at the office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Washington, DC 20530, Room 1736. Copies of the Consent Decree can be obtained in person or by mail from the Environmental Enforcement Section at the above address.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-8383 Filed 4-15-88; 8:45 am]

BILLING CODE 4410-01-M

Office of the Attorney General

United States Trustee Program; Certification, Sixth Circuit

The Attorney General, pursuant to section 303 of the Bankruptcy Judges, United States Trustees, and Family Farmer Act of 1986, Pub. L. No. 99-554, 100 Stat. 388 (1986), hereby certifies to the United States Court of Appeals for the Sixth Circuit on this date that, in the region specified in paragraph 581 (a) (9) of title 28, United States Code, composed of the federal judicial districts for the States of Michigan and Ohio, the amendments made by section 113 and subtitle A of title II of the Act and section 1930 (a) (6) of title 28, United States Code, will apply 30 days after this date as to all cases commenced under chapters 7, 11, 12, or 13 of title 11, United States Code, on or after November 26, 1986. The amendments will also apply in cases commenced prior to November 26, 1986, one year after this certification, unless a final report and account of the administration of the estate required under section 704 of title 11, United States Code, has been filed, or a plan has been confirmed under section 1129, 1225, or 1325 of title 11.

These amendments implement the United States Trustee system in the region and impose quarterly fees in chapter 11 cases commenced on or after November 26, 1986 beginning on the thirtieth day after the date of this certification. The implementation of the United States Trustee system and the imposition of quarterly fees in those chapter 11 cases commenced prior to November 26, 1986, in which a plan has not been confirmed, will become effective one year after the date of this certification.

The United States Trustee presently serving for the region is responsible, pursuant to section 301(a) of the Act, for implementing the amendments made by the Act in the region hereby certified.

Date: April 5, 1988.

Edwin Meese III,
Attorney General.

[FR Doc. 88-8384 Filed 4-15-88; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 88-36]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting change.

Federal Register Citation of Previous Announcement: 53FR10175, Notice Number 88-30, March 29, 1988.

Previous Announced Times and Dates of Meeting: April 18, 1988, 8:30 a.m. to 4:30 p.m.; and April 19, 1988, 8:30 a.m. to 11:30 a.m.

Change in The Meeting: Dates changed to May 9, 1988, 8:30 a.m. to 4:30 p.m.; and May 10, 1988, 8:30 a.m. to 11:30 a.m.

Contact Person for More Information: Dr. Randolph Graves, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2828.

Dated: April 12, 1988.

Ann Bradley,

*Advisory Committee Management Officer,
National Aeronautics and Space
Administration.*

[FR Doc. 88-8388 Filed 4-15-88; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for

records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATE: Requests for copies must be received in writing on or before June 2, 1988. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that take into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending:

1. Department of Commerce, International Trade Administration (N1-151-88-2). Records of the Deputy Assistant Secretary of Commerce for Trade Adjustment Assistance.

2. Department of Health and Human Services, Office of Human Development Services (N1-439-87-1) Supplement to agency's comprehensive records control schedule.

3. Department of the Interior, U.S. Geological Survey (N1-57-88-1). Seismographic records of the Geologic Division, Branch of Global Seismology and Geomagnetism.

4. Department of Justice, Land and Natural Resources Division (N1-60-88-8). Attorney and non-attorney time reporting records.

5. U.S. Postal Service, Bureau of the Third Assistant Postmaster General (N1-28-88-2). Records relating to unpaid postal savings accounts.

6. Tennessee Valley Authority, Office of the General Counsel (N1-142-88-8). Records submitted to the OGC for review related to the billing for the transportation of goods.

7. Tennessee Valley Authority, Office of Corporate Services, Division of Property and Services (N1-142-88-9). Records documenting official travel of agency employees via commercial and corporate flights, maintained in machine readable form.

8. Tennessee Valley Authority, Office of Corporate Services, Division of Medical Services (N1-142-88-11). Project property record used to inventory medical equipment.

9. Veterans Administration, Department of Veterans Benefits, Field Station Administrative Issues History Files (N1-15-87-8). Field station issuances related to routine administrative functions (e.g., payroll procurement, personnel).

Dated: April 11, 1988.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 88-8395 Filed 4-15-88; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL SCIENCE FOUNDATION

Interagency Arctic Research Policy Committee; Meeting

In accordance with the Arctic Research and Policy Act, Pub. L. 98-373, the National Science Foundation announces the following meeting:

Name: Interagency Arctic Research Policy Committee.

Date & Time: May 2, 1988 9:00 a.m.

Place: U.S. Department of the Interior, Room 5160, 18th and C Streets, NW., Washington, DC.

Type of Meeting: Open—entire meeting.

Contact Person: Jerry Brown or Charles E. Myers, Division of Polar Programs, Room 627, National Science Foundation, Washington, DC 20550 Telephone: (202) 357-7817.

Purpose of Committee: The Interagency Arctic Research Policy Committee was established by Pub. L. 98-373, the Arctic Research and Policy Act, to survey arctic research, help determine priorities for future arctic research, assist in the development of a national arctic research policy, prepare a single, integrated multi-agency budget request for arctic research, develop a plan to implement national arctic research policy, and facilitate cooperation in and coordination of arctic research.

Agenda: 1. U.S. Arctic Research Planning, Implementation, and Data Management.

2. International Activities.

3. Arctic Logistics Planning and Coordination.

4. Arctic Research Commission Activities.

Public Participation: Committee meetings are not designed as public hearings and will not normally receive verbal comments from observers unless specifically invited by the Committee. Observers invited to address the Committee will be limited to 5 minutes each. An invitation to address the Committee is contingent upon advance submission of the proposed statement and a determination by the Committee that such statement is relevant and appropriate to the agenda at that particular meeting. The texts of such statements shall not exceed 5 double-spaced typed pages each.

Charles E. Myers,

Division of Polar Programs.

[FR Doc. 88-8301 Filed 4-15-88; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued another periodic report to Congress on abnormal occurrences (NUREG-0090, Vol. 10, No. 4).

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination based on criteria published in the *Federal Register* (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

The report to Congress is for the fourth calendar quarter of 1987. The report identifies the occurrences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described. During the report period, there was one abnormal occurrence at the NRC licensee; the item involved the suspension of license of an oil and gas well tracer company for noncompliance with NRC regulatory requirements. There were no abnormal occurrences reported by the Agreement States.

The report also contains information updating some previously reported abnormal occurrences.

A copy of the report is available for public inspection and/or copying at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555, or at any of the nuclear power plant Local Public Document Rooms throughout the country.

Copies of NUREG-0090, Vol. 10, No. 4 (or any of the previous reports in this series), may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. A year's subscription to the NUREG-0090 series publication, which consists of four issues, is also available.

Copies of the report may also be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Washington, DC, this 5th day of April, 1988.

For the Nuclear Regulatory Commission,
Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 88-8426 Filed 4-15-88; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Generic Items; Meeting

The ACRS Subcommittee on Generic Items will hold a meeting on April 27.

1988, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, April 27, 1988—1:30 p.m. until the conclusion of business

The Subcommittee will discuss: (1) Integrated Safety Assessment Program (ISAP)-II, and (2) Integration of Related Generic Issues.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Sam Duraiswamy (telephone 202/634-3267) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: April 11, 1988.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88-8424 Filed 4-15-88; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public

meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published March 22, 1988 (53 FR 9384). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 A.M. and Subcommittee meetings usually begin at 8:30 A.M. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the May 1988 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 202/634-3265, ATTN: Barbara Jo White) between 7:30 A.M. and 4:15 P.M., Eastern Time.

ACRS Subcommittee Meetings

Thermal Hydraulic Phenomena, April 19-21, 1988, Idaho Falls, ID. The Subcommittee will review the following topics: (1) the draft Models and Correlations Document for the RELAP-5/MOD 2 thermal hydraulic code, (2) the final version of the proposed revision to the ECCS Rule, and (3) discuss a proposed report on the NRC RES thermal hydraulic research program for consideration by the ACRS.

Severe Accidents, April 26, 1988, Washington, DC. The Subcommittee will review the final version (intended) of the NRC Staff's proposed generic letter on Individual Plant Examinations (IPEs).

Human Factors, April 27, 1988, Washington, DC. The Subcommittee will be briefed and will discuss the following: (1) Proposed Commission Policy Statement on the Professional Conduct of Nuclear Power Operators, (2) cognitive intelligence and (3) nuclear computerized library.

Generic Items, April 27, 1988, Washington, DC. The Subcommittee will discuss: (1) Integrated Safety Assessment Program (ISAP)-II, and (2) Integration of Related Generic Issues.

Babcock & Wilcox Reactor Plants, May 3 and 4, 1988, Washington, DC. The Subcommittee will continue its review

of the long-term safety review of B&W reactors.

Regional Programs, May 24, 1988, Atlanta, GA. The Subcommittee will review the activities under the control of the NRC Region II Office.

Improved LWRs, May 25, 1988, Washington, DC. The Subcommittee will discuss Chapters 3, 4, and 5 of the EPRI ALWR Requirements document.

Metal Components, May 26, 1988, Washington, DC. The Subcommittee will discuss the quality of fasteners in nuclear power plants, BWR reactor pressure vessel in-service inspections, and status of the piping erosion-corrosion program.

Advanced Boiling Water Reactors, June 1, 1988, Washington, DC. The Subcommittee will begin its review of the GE ABWR. This meeting will concentrate on the first review module consisting of SAR Chapters 4, 5, 6, and 15-1.

Waste Management, June 7-8, 1988, Washington, DC. The Subcommittee will review pertinent nuclear waste management topics to be determined in the near future.

Reliability Assurance, June 14, 1988, Washington, DC. The Subcommittee will be briefed on the final outcome of the Equipment Qualification-Risk Scoping Study. An update on the implementation of the resolution of USI A-46, "Seismic Qualification of Equipment in Operating Nuclear Power Plants," is also planned.

Maintenance Practices and Procedures, June 15, 1988, Washington, DC. The Subcommittee will be briefed by RES on the current status of the Maintenance Rule.

Thermal Hydraulic Phenomena, June 21, 1988 (tentative), Washington, DC. The Subcommittee will review the status of the MIST Phast III and IV Programs and the proposed OTSG Follow-on Program.

Thermal Hydraulic Phenomena, June 22, 1988 (tentative), Washington, DC. The Subcommittee will review the W revised ECCS Model for 2-Loop Upper Plenum Injection (UPI) plants.

Decay Heat Removal Systems, June 23, 1988 (tentative), Washington, DC. The Subcommittee will continue its review of the NRC Staff's resolution position of USI A-45.

RVA Organizational Issues, July 13, 1988, Washington, DC. The Subcommittee will review the lessons learned from the NRC Staff's review of the shutdown of TVA's nuclear power plants.

Advanced Pressurized Water Reactors, Date to be determined (May/June), Washington, DC. The Subcommittee will review the draft SER

of the Modular HTGR conceptual design. In addition, the Subcommittee may review Commissioner Bernthal's concerns regarding SECY-88-42.

Occupational and Environmental Protection Systems. Date to be determined (May/June), Washington, DC. The Subcommittee will review: (1) "hot particle" problem, (2) monitoring the quality and quantity of airborne radionuclides in/out of containment following an accident, (3) the emergency planning rule, (4) the control room habitability report by ANL, and (5) other related matters.

Advanced Pressurized Water Reactors. Date to be determined (June), Washington, DC. The Subcommittee will review the licensing review bases document being developed for Combustion Engineering's Standard Safety Analysis Report-Design Certification (CESSAR-DC).

Containment Requirements. Date to be determined (June/July), Washington, DC. The Subcommittee will review the NRC Staff's document on interim recommendations for containment performance and improvements (BWR Mark I only) (tentative).

Safety Philosophy, Technology and Criteria. Date to be determined (June/July), Washington, DC. The Subcommittee will review the status of NUREG-1251 (Implications of Chernobyl) and the NRC Staff's program (at BNL) to address the implications of Chernobyl in regard to severe reactivity transients. The Subcommittee may also review the Staff's final version of a proposed generic letter on USI A-17, "Systems Interactions."

Decay Heat Removal Systems. Date to be determined (June/July), Washington, DC. The Subcommittee will review the proposed resolutions of Generic Issue 23, "RCP Seal Failures," and Generic Issue 99, "Loss of RHR Capability in PWRs."

Advanced Pressurized Water Reactors. Date to be determined (July), Washington, DC. The Subcommittee will review the draft SER in regard to the reactor, reactor coolant system, and regulatory conformance for the WAPWR RESAR SP/90 design.

Advanced Pressurized Water Reactors. Date to be determined (July/August), Washington, DC. The Subcommittee will discuss the comparison of WAPWR (RESAR SP/90) design with other modern plants (in U.S. and abroad).

Decay Heat Removal Systems. Date to be determined, Washington, DC. The Subcommittee will explore the issue of the use of feed and bleed for decay heat removal in PWRs.

Systematic Assessment of Experience. Date and location to be determined. The Subcommittee will review the Diagnostic Evaluation Program and other related licensee performance review efforts by the NRC Staff.

Thermal Hydraulic Phenomena. Date to be determined, Washington, DC. The Subcommittee will discuss the status of Industry best-estimate ECCS Model submittals for use with the revised ECCS Rule.

Auxiliary Systems. Date to be determined, Washington, DC. The Subcommittee will discuss the: (1) criteria being used by utilities to design Chilled Water Systems, (2) regulatory requirements for Chilled Water Systems design, and (3) criteria being used by the NRC Staff to review the Chilled Water Systems design.

ARC Full Committee Meeting

May 5-7, 1988—Items are tentatively scheduled:

***A. Babcock & Wilcox Nuclear Power Plants (Open)**—Review design reassessment of B&W Owners Group safety assessment of B&W nuclear power plants.

***B. Fire Protection of Nuclear Facilities (Open)**—Review SNL report on fire risk scoping study. Representatives of NRC Staff will participate as appropriate.

***C. Human Factors (Open)**—Review and comment on proposed NRC policy statement regarding the Professional Conduct of Nuclear Power Plant Operators.

***D. Integrated Safety Assessment Program (Open)**—Review and comment regarding proposed NRC Staff, implementation of ISAP-II.

***E. Environmental Qualification of Equipment (Open)**—Discuss proposed issuance of Regulatory Guide 1.100, Seismic Qualification of Electrical and Mechanical Equipment.

***F. Emergency Core Cooling System (Open)**—Review and comment on proposed revision of NRC ECCS Rule regarding use of best-estimate analytical models.

***G. Thermal Hydraulic Phenomena (Open)**—Discuss proposed ACRS comments on NRC research program regarding thermal hydraulic phenomena.

***H. ACRS Subcommittee Activities (Open)**—Reports of subcommittee activities in designate areas including the Westinghouse Advanced PWR.

***I. Generic Issues (Open)**—Discuss proposed prioritization of generic issues for nuclear power plants.

***J. Operating Events and Incidents (Open/Closed)**—Briefing regarding operating events and incidents at nuclear facilities.

***K. Analysis and Evaluation of Operating Data (Open/Closed)**—Briefing regarding analysis and evaluation of operating data at nuclear facilities.

***L. Anticipated ACRS Activities (Open)**—Discuss anticipated ACRS subcommittee activities and items proposed for consideration of the full committee.

***M. Appointment of ACRS Members (Closed)**—Discuss qualifications of candidates proposed for consideration as members of the ACRS.

***N. Individual Plant Examination (Open)**—Review and comment regarding the proposed NRC generic letter to nuclear power plant operators regarding the IPE program for nuclear power plants.

***O. Containment Systems (Open)**—Briefing and discussion of proposed NRC action plan to resolve issues concerned with Mark I containments to withstand severe accidents.

June 2-4, 1988—Agenda to be announced.

July 14-16, 1988—Agenda to be announced.

Date: April 13, 1988.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 88-8425 Filed 4-15-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-528, STN 50-529 and STN 50-530]

Arizona Public Service Co. et al.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-41, NPF-51, and NPF-74, issued to the Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, El Paso Electric Company, Southern California Edison Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power, and Southern California Public Power Authority (licensees), for operation of the Palo Verde Nuclear Generating Station, Units 1, 2 and 3 located in Maricopa County, Arizona.

The amendments would revise the technical specifications relating to the design description of fuel assemblies to include assemblies containing a limited number of Zircaloy-4 or stainless steel filler rods, or vacancies, in lieu of fuel

rods for use in reload cores. The proposed amendments were requested by the licensees' letter of April 8, 1988.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the commission's regulations.

The Commission has made a proposed determination that the request for amendments involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751) of amendments that are considered not likely to involve significant hazards considerations. Example (iii) relates to a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable. The proposed change is similar to example (iii) of 51 FR 7751 because it would permit reconstituted fuel assemblies to be used during the next core reloading for each facility. The use of reconstituted fuel was developed by Combustion Engineering and is being implemented in other facilities similar in design to Palo Verde.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Office of

Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 18, 1988, the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended

petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public

Document Room, 1717 H Street, NW, Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 13th day of April, 1988.

For the Nuclear Regulatory Commission.

E.A. Licita,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-8392 Filed 4-15-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-13435, License No. 53-17854-01, EA 88-69]

**Finlay Testing Laboratories, Inc.;
Order Continuing Suspension of
License (Effective Immediately) and
Order To Show Cause Why License
Should Not Be Revoked**

I.

Finlay Testing Laboratories, Inc. (the licensee), Testing and Inspection Services, 99-940 Iwaena Street, Aiea, Hawaii 96701, is the holder of Byproduct

Material License No. 53-17854-01 (license) issued by the Nuclear Regulatory Commission (NRC/Commission). The license authorized the licensee to possess and use licensed materials (cobalt-60, iridium-192, and cesium-137 sources of up to 30, 100, and 0.14 curies per source, respectively) in industrial radiography and survey instrument calibration. On September 21, 1987 the license was suspended by Order entitled "Order Suspending License (Effective Immediately)" pending further investigation of the licensee. Pursuant to 10 CFR 2.202(f), that Order was temporarily effective pending further order. This Order addresses the results of the further investigation and continues the suspension directed by the September 21, 1987 Order.

II.

In response to allegations received by the NRC Region V office, an inspection and an investigation of alleged violations of NRC requirements were initiated on August 31, 1987. The inspection and investigation indicated that on February 9 and 14, 1987 and August 18, 1987, the licensee had caused the shipment of radiographic exposure devices containing radioactive sources on passenger-carrying aircraft by concealing the nature of the material being offered for transport. As a result, on September 21, 1987, the NRC issued an Order Suspending License, effective immediately.

III.

Since issuance of the September 21, 1987 suspension order, the NRC staff has continued to investigate and inspect the performance of the licensee in terms of compliance with NRC regulations, including the alleged willful and repeated violations of federal regulations involving the shipment of radiographic exposure devices on military and civilian passenger aircraft flights. Investigation findings since the September 21, 1987 Order have revealed new information indicating further examples of violations showing that the licensee was unable or unwilling to comply with the Commission's requirements to protect the public health and safety. These violations, together with those that were the basis of the previous Order, are set out in detail in the attached Notice of Violation. The more significant violations are summarized as follows:

A. Contrary to applicable NRC and Department of Transportation (DOT) regulations designed to prevent radioactive exposure of airline passengers and employees, on February

9 and 14, 1987 and April 3 and 14, 1987, on six separate passenger carrying flights, the licensee shipped concealed radiographic exposure devices containing licensed radioactive material between the islands of Hawaii and Oahu.

Furthermore, contrary to requirements, there are not records of surveys necessary to demonstrate that, in each instance, the source was in its shielded position. Of these shipments, at least four involved more than one licensee employee.

Also, on January 29, 1987, and August 18, 1987, the licensee delivered radiographic exposure devices to military transportation authorities for transport between Oahu and Johnston Island on military passenger/cargo aircraft without revealing the nature of the material being offered for shipment and without proper package certification, labeling, and shipping documents.

B. In its response of October 5, 1987 to the NRC Order of September 21, 1987, the licensee stated:

The transportation violations that occurred were isolated, aberrational and unanticipated events in the job performance of the involved radiographers. They were not authorized by Finlay Testing or Gordon Finlay, and certainly were not the usual course of business at Finlay Testing.

Contrary to this assertion, the evidence developed by the investigation indicates that transportation violations were regular occurrences and were the result of deliberate and willful conduct of Finlay Testing. The evidence indicates that, of the eight licensee employees who performed radiography for the licensee in 1987, seven have admitted or have been identified as having taken part in shipments that violated significant requirements. The licensee's Radiation Safety Officer/General Manager was among the involved employees.

The evidence further shows that in at least two instances, the violations occurred with the knowledge of, and in one of those instances, at the direction of, the president and owner of Finlay Testing Laboratories, Inc., Gordon Finlay, notwithstanding objections by the employees involved that the shipments were improper. In one shipment from Johnston Island to Oahu, Gordon Finlay took possession of the source in an unmarked container when it arrived at the MAC terminal. Prior to the shipment, Mr. Finlay advised the employee who was bringing the source to Oahu not to divulge to anyone the nature of the material being shipped.

The evidence indicates that Mr. Finlay was directly involved in these violations. For example, the evidence indicates that although he called the U.S. Army Director of Logistics several times and learned the correct procedures for packing and labeling a source for transportation by the Military Airlift Command, he ignored the procedures.

The licensee was unable to provide the NRC inspectors required records associated with source utilization on the island of Hawaii for the dates February 9-14, 1987 and April 3 and 14, 1987, the dates of improper shipments to the island of Hawaii. In contrast, the licensee was able to provide to the NRC inspectors the required records, in all but one case, for source utilization off the island of Oahu for shipments where the records indicated that shipments were proper. A reasonable inference from the absence of source utilization records and shipping documents for dates related to improper shipments is that Finlay Testing Laboratories, Inc., had attempted to prevent the NRC from discovering the transportation violations through normal inspection techniques.

C. The license specifies that sources were to be used by, or under the supervision of, Gordon Finlay or individuals who had completed the training program described in letters dated February 28, 1983 and August 2, 1983. Finlay Testing violated training requirements specified in the license and in 10 CFR Part 34 as to five licensee employees. The evidence indicates that at least five licensee employees performed work with radiographic equipment without completing one or more of the following training requirements: Completion of classroom training; completion of written and field examinations; and receipt from the licensee of required written safety procedures.

D. The investigation identified numerous instances where the licensee violated several important areas of its radiation safety program. Each of these failures constitutes a violation of Commission requirements. The violations include:

1. Failures to post radiation and high radiation areas.
2. Failures to provide constant surveillance to prevent unauthorized entry of individuals into restricted areas when radiography was being performed.
3. Failures to lock radiographic exposure devices.
4. Failures to secure radiographic exposure devices against unauthorized removal.

5. Use of partially discharged pocket dosimeters for personnel radiation monitoring.

E. The investigation identified numerous instances where the licensee failed to maintain required records.

Specifically, on at least forty occasions during licensed radiographic operations since October 4, 1986, the licensee failed to prepare or to maintain required records that show one or more of the following: (1) The utilization of radiographic sources; (2) the results of exposure device safety inspections; (3) the radiation surveys needed to establish boundaries of restricted areas; (4) radiation surveys performed following the return of radiographic sources to storage; and (5) the readings from pocket dosimeters worn during radiographic operations.

IV.

In the attached Notice of Violation, due to the willfulness and deception employed in repeatedly transporting radioactive sources in violation of regulatory requirements, the Severity Level assessed for violations I.A through D has been increased to Severity Level I in accordance with Section III of the "General Statement of Policy and Procedures for NRC Enforcement Action," 10 CFR Part 2, Appendix C (1987). The severity level assessed for violations I.A through X has been increased to Severity Level II in accordance with Section III of the Enforcement Policy Statement, as these violations demonstrate a careless disregard for NRC requirements.

V.

The federal regulations for shipping radioactive material by air have been established, in part, to protect passengers in aircraft and personnel who handle baggage and cargo from receiving radiation exposure from radioactive material. For the safety of handlers and passengers, the regulations require packaging, labeling, surveying, documentation, and storage limitations for carriage of radioactive material, and also limit the types of flights on which the material may be transported. Regulations concerning training of personnel, surveying of sources and work sites, proper security for radioactive sources, and maintenance of records have been promulgated to protect the health and safety of the public, including licensee employees.

The information presented in this Order and in the attached Notice of Violation shows that the violations described in the September 21, 1987 Order were not isolated cases. As detailed in the Notice of Violation, there

were at least eight improper shipments by seven licensee employees over an eight month period, demonstrating the licensee's willingness to violate NRC requirements when expedient. Indeed, with regard to more than one shipment, the owner and president of Finlay Testing Laboratories directed the shipping of the radiographic exposure device in violation of federal requirements.

Information currently available to the NRC staff establishes that the licensee was unwilling, over an extended period of time, to comply with the Commission's requirements to protect the public health and safety when compliance with the requirements would delay the transport of the licensed material or be otherwise inconvenient. Furthermore, the licensee has demonstrated an unwillingness or an inability to comply with the obligations to protect the public health and safety must be assumed by those whom a license is entrusted. This unwillingness or inability to comply is shown by the licensee's violations of requirements to properly survey and to adequately post radiation areas, to properly secure devices when in storage, to use adequately trained and qualified personnel, to properly monitor exposure of employees, to maintain numerous records, and to exercise adequate control of licensed activities. The lengthy list of violations demonstrates a serious breakdown of management control. In sum, the licensee has shown a disregard for NRC requirements and for the public health and safety.

Given the number and nature of violations and the large number of employees involved relative to the total number of employees performing licensed activities, the NRC no longer has reasonable assurance that licensed activities will or can be conducted without undue risk to the public health and safety. If, at the time the license was issued, the NRC had known of the licensee's inability or unwillingness to control licensed activities, the license would not have been issued. Therefore, I have determined that permitting this licensee to conduct licensed activities would be contrary to the public health and safety and that the license should be revoked. I have also determined pursuant to 10 CFR 2.201(c) and 2.202(f), that the public health and safety requires the continued suspension of the license until the revocation issue is resolved, and that no prior notice is required.

VI.

Accordingly, in view of the foregoing and pursuant to sections 81, 161b, 161c, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR § 2.202 and 10 CFR Parts 30 and 34, it is hereby ordered, effective immediately, that:

Activities under License No. 53-17854-01 shall continue to be suspended.

It is further ordered that:

The licensee shall show cause, in accordance with section VII of this Order, why License No. 53-17854-01 should not be revoked.

The Regional Administrator, Region V, may, in writing, relax or rescind any of the above provisions on demonstration of good cause by the licensee.

VII.

Pursuant to 10 CFR 2.202(b), the licensee may show cause why License No. 53-17854-01 should not be revoked by filing a written answer under oath or affirmation within 20 days of the date of issuance of this Order, setting forth the matters of fact and law on which the licensee relies. The licensee may answer this Order, as provided in 10 CFR 2.202(d), by consenting to the provisions set forth in Section VI of this Order, or on failure of the licensee to file an answer within the specified time, the license shall be revoked without further Order.

VIII.

The licensee or any other person adversely affected by this Order may request a hearing within 20 days of this Order. Any answer to this Order and any request for a hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement, Office of the General Counsel, at the same address, and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region V, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). An answer to this Order or a request for hearing shall not stay the immediate effectiveness of the continuation of the suspension.

If a hearing is requested by the licensee or a person whose interest is

adversely affected, the Commission shall issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at the hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 11th day of April 1988.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

[FR Doc. 88-8391 Filed 4-15-88; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Information Collection Activities Under OMB Review

Agency Clearance Officer—Kenneth Fogash, (202) 272-2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, DC 20549.

Revision

SEC File Nos. 270-2, Regulation S-K and 270-50, Form 8-K

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 as amended in 1986 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for approval proposed amendments to accelerate the time periods for filing information on Form 8-K regarding changes in registrants' certifying accountants and resignations of registrants' directors.

Information collected and records prepared pursuant to the proposed rules would focus on documenting circumstances surrounding a change in a registrant's certifying accountants, and the resignation of the registrant's directors. This information will be used by the public and/or the Commission to review the circumstances surrounding each of these events.

There will generally be a response to the information and record collection request whenever one of these two events occurs.

The potential respondents include all entities that file registration statements or reports (and auditors of financial statements in such registration statements and reports) pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, or the Investment Company Act of 1940 at an estimated 5 burden hours per form.

It is estimated that there would not be an increase in compliance burden resulting from the proposed rules because the proposals accelerate the timing or disclosure, but do not affect the required recordkeeping or the substance of the disclosures.

Submit comments to OMB Desk Officer: Robert Neal (202) 395-7430, Office of Information and Regulatory Affairs, Room 3228, NEOB, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

April 7, 1988.

[FR Doc. 88-8436 Filed 4-15-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-25564; File No. PHLX 88-12]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Floor Broker Transactions in Their Own Accounts

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 24, 1988 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange"), pursuant to Rule 19b-4, hereby proposes the following rule change: (The following constitutes all new text.)

C-9 Floor Brokers Trading in Their Customer Accounts

All persons employed on the trading floor in association with a Member or Participant, other than Registered Options Traders ("ROTs") and Specialists, are prohibited from initiating trades in PHLX options in their customer accounts while on the floor. A Member or Participant firm which accepts an order for the customer account of such a person must process the order through the channels it normally provides for its other customer orders. When such an order is received on the floor, it may not be handled by any person associated or affiliated with such person or any person with a

beneficial interest in the account. Once such a person has placed an order for his/her customer account in an option, that person is prohibited from brokering orders in that option for the remainder of that day or until such order has been executed or cancelled, whichever is later. This provision shall not apply to (i) any transaction made with the prior approval of two floor officials to permit such person to contribute to the maintenance of a fair and orderly market in such security, or any purchase or sale to reverse any such transaction or (ii) any transaction to offset a transaction made in error.

C-9.... 1st Occurrence	\$100.00
2nd Occurrence and Sanction is	
Thereafter.	Discretionary with
	Business Conduct
	Committee

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to clarify that all persons employed on the trading floor in association with a Member or Participant, other than ROTs and Specialists, are prohibited from initiating trades in PHLX options in their personnel customer accounts while on the floor. In this regard, the rule change codifies and makes explicit the applicability of section 11(a) of the Securities Exchange Act of 1934 ("Act") to brokers and other options floor personnel. Section 11(a) makes it "unlawful for any member of a national securities exchange to effect any transaction on such exchange for its own account, the account of an associated person, or an account with respect to which it or an associated person thereof exercises investment discretion." Section 11(a) then provides a number of statutory exceptions,

including a dealer/market maker exception [Section 11(a) (A) and (B)] and an error transaction exception [Section 11(a)(F)].

The proposed rule change specifically incorporates the latter exceptions of section 11 while providing the flexibility, consistent with Rule 11a-1(b)(5) under the Act, for additional exceptions to be made, if "made with the prior approval of two floor officials to permit such person to contribute to the maintenance of a fair and orderly market in such security, or any purchase or sale to reverse any such transaction."

As noted in the text of the proposed rule change, the proposal is being promulgated as an Option Floor Procedure Advice, which sets forth a present \$100 fine for first occurrence violations with second and subsequent violations being discretionary with the Exchange's Business Conduct Committee.

The proposed rule change is consistent with Section 11 of the Act and section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, will promote just and equitable principles of trade, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members Participants, or Others

No written comments were either solicited or received; the proposal, however, was reviewed and approved by the PHLX Options Committee and Foreign Currency Options Committee.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days or such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 9, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

April 8, 1988.

[FR Doc. 88-8433 Filed 4-15-88; 8:45 am]

BILLING CODE 8010-01-M

[500-1]

Balboa Development, Inc.; Order of Trading Suspension

April 13, 1988.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information relating to the securities of Balboa Development, Inc. ("Balboa"), an Oregon corporation with principal business offices in San Francisco, California, and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things: the lack of current and accurate public information about Balboa's financial condition and results of operations; its revenues and net income; its total assets; and other matters. The Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Balboa.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that over-the-counter

trading in the securities of Balboa Development, Inc. is suspended, for the period commencing at 1:00 p.m. (EDT) on April 13, 1988, and terminating at 11:59 p.m. (EDT) on April 22, 1988.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-8434 Filed 4-15-88; 8:45 am]

BILLING CODE 8010-01-M

[500-1]

Eli Scientific, Inc.; Order of Trading Suspension

April 13, 1988.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information relating to the securities of Eli Scientific, Inc. ("Eli"), formerly named Nexxus Technologies, Inc., an Oregon corporation with principal business offices in Covina, California, and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things: the lack of current and accurate public information about Eli's financial condition and results of operations; its revenues and net income; its total assets; and other matters. The Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Eli.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that over-the-counter trading in the securities of Eli Scientific, Inc. is suspended, for the period commencing at 1:00 (EPT) on April 13, 1988, and terminating at 11:59 p.m. (EDT) on April 22, 1988.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-8435 Filed 4-15-88; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8160]

Issuer Delisting; Application To Withdraw From Listing and Registration; General Defense Corporation (13% Senior Subordinated Debentures due April 15, 1995 and 14½% Senior Subordinated Debentures due February 1, 2003)

April 12, 1988.

General Defense Corporation ("Company") has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934

("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified securities from listing and registration of the American Stock Exchange, Inc. ("Amex" or "Exchange").

The reasons alleged by the Company in the application for withdrawing its Debentures from listing and registration on the Amex include the following:

According to Section 1002 of the Amex Company Guide, the Exchange will consider the removal from listing of any security when, in the opinion of the Exchange, the financial condition and/or operating results of the Company appear to be unsatisfactory. The Company's unsatisfactory financial condition and operating results are demonstrated by the following:

There is currently an Event of Default with respect to the 14½% Debentures and it is unlikely that the April 15, 1988 interest payment on the 13% Debentures will be made. The Company and its parent, Clabir Corporation ("Clabir"), have been notified that they are in default under their credit agreement, pursuant to which \$55 million of indebtedness is currently outstanding.

Although the Company's results of operations for the fiscal year ended January 31, 1988 have not yet been finalized, the Company has announced that it anticipates reporting revenues of approximately \$159 million and a significant operating loss as compared to revenues of \$275,851,000 and operating income of \$31,438,000 reported in the prior fiscal year. The Company also anticipates incurring large non-cash charges as a result of the writing-off of a material portion of goodwill primarily associated with the purchase of the Company by Clabir in July 1986, which will increase the Company's operating loss for the year ended January 31, 1988.

It is anticipated that a restructuring of the Company's outstanding public indebtedness will be necessary, including the Debentures and the \$80.5 million principal amount outstanding of 12% Senior Subordinated Debentures due February 1, 1999 of Hamilton Technology, Inc., a wholly-owned subsidiary of the Company. Drexel Burnham Lambert Incorporated ("Drexel") has been engaged to advise the Company in connection with the proposed sale and the restructuring.

In light of the foregoing and the Company's severe working capital shortage, Clabir has announced that it has determined to seek to sell the Company.

In connection with the contemplated restructuring of the Company's outstanding public indebtedness, the consent of the holders of the Debentures to the waiver of and/or amendment to

certain provisions of the 13% Indentures and the 14½% Indenture may be required. As long as the Debentures continue to be listed on the Exchange and registered under section 12(b) of the Act, the solicitation of the consent of Debentureholders to any such waiver or amendment will be subject to the federal proxy rules. Compliance with the federal proxy rules generally entails the preparation of a lengthy, detailed document, including financial and other information concerning the Company. The Company believes that the delay and expense that would be entailed in the preparation and filing of a proxy statement in compliance with the proxy rules would be unduly burdensome in light of Company's current financial condition and the limited number of holders of the Debentures.

According to Section 1011 of the Amex Company Guide, "[i]n appropriate circumstances, when the Exchange is considering delisting because a company no longer meets the requirements for continued listing, a company may, with the consent of the Exchange, file a delisting application, provided that it states in its application that it is no longer eligible for continued dealings on the Exchange."

On the basis of the Company's financial condition the Amex has informed the Company that it will not object to the Company's delisting application. At the request of the Exchange, the Company has arranged for the trustee (the "Trustee") under the indentures with respect to the Debentures (the "Indentures") to send a notice to the registered holders of the Debentures (the "Debentureholders") stating that the Application has been filed with the Exchange.

Drexel, which has acted as a market maker with respect to the Debentures, has advised the Company that it is willing to act as a market maker following the withdrawal of the Debentures from listing and registration. Drexel has advised the Company, however, that it is prohibited from engaging in market making activity with respect to securities at any time that such securities are on a "restricted list" and that the Company's securities are currently on Drexel's restricted list because Drexel has been engaged to assist in the proposed sale of the Company and restructuring of its subordinated indebtedness. The Company has informed the Exchange that it will use its best efforts to cause a registered broker-dealer to make a market in the Debentures until there are no longer any of the Debentures publicly held.

In addition, the Company has undertaken to the Exchange:

(a) To send audited financial statements, within 120 days after the close of each fiscal year, to the Debentureholders and to the Trustee;

(b) To comply with the provisions of each of the Indentures concerning notices to the Trustee and/or the Debentureholders;

(c) To forward to the Securities and Exchange Commission, while the Application is pending, any comments received from Debentureholders regarding the decision to delist the Debentures.

Any interested person may, on or before May 3, 1988, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-8415 Filed 4-15-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16361; File No. 812-6917]

Nationwide Life Insurance Co. ("Nationwide")

April 12, 1988.

Agency: Securities and Exchange Commission ("SEC").

Action: Notice of Application for Exemption under the Investment Company Act ("the 1940 Act").

Applicants: Nationwide Life Insurance Company, Nationwide Variable Account-3 ("Variable Account-3") and American Capital Marketing, Inc.

Relevant 1940 Act Sections:

Exemption requested under Section 6(c) from Sections 26(a)(2)(C) and 27(c)(2).

Summary of Application: Applicants seek an order to permit the deduction of a mortality and expense risk charge, for certain variable annuity contracts to be issued by Nationwide, from the assets of Variable Account-3.

Filing Date: The application was filed on November 13, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application

will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on May 6, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send a copy to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

Addresses: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Nationwide Life Insurance Company, One Nationwide Plaza, Columbus, Ohio 43216.

For Further Information Contact: Wendell M. Faria, Staff Attorney, at (202) 272-3450, or Lewis B. Reich, Special Counsel, at (202) 272-2061 (Division of Investment Management, Office of Insurance Products and Legal Compliance).

Supplementary Information:

Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier, (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Variable Account-3 was established by Nationwide pursuant to Ohio law to fund certain Individual Deferred Variable Annuity Contracts (the "Contracts"). It is registered as a unit investment trust under the 1940 Act. The Contracts are currently in the process of being registered under the Securities Act of 1933 on Form N-4.

2. Variable Account-3 will invest only in shares of American Capital Life Investment Trust, an open-end diversified management investment company consisting of five Portfolios. American Capital Marketing, Inc., will serve as the principal underwriter for the Contracts.

3. For assuming certain risks under the Contracts, Nationwide will impose a mortality and expense risk charge at an annual rate of 1.25% of the total net assets of Variable Account-3. Of this charge approximately .80% will be allocated to cover mortality risks and approximately .45% for expense risks. The rate of this charge is guaranteed never to increase.

4. The mortality risk Nationwide assumes arises from its contractual obligation to make payments for the remaining life of an annuitant regardless of how long all annuitants or any

individual annuitant may live. In this regard, annuity payments will not be affected by the mortality experience of persons receiving such payments or of the general population. The expense risk Nationwide assumes is that the expenses incurred in administering the Contracts will be greater than estimated and, therefore, will exceed the expense charge limit set in the Contracts.

5. Applicants represent that the mortality and expense risk charge is reasonable in relation to the risks Nationwide assumes under the Contracts.

6. Applicants further represent that the mortality and expense risk charge is within the range of industry practice with respect to comparable annuity products. This representation is made upon Nationwide's analysis of publicly available information of other insurance companies of similar and risk ratings offering similar products.

7. Applicants also represent that there is a reasonable likelihood that Variable Account-3's proposed distribution financing arrangement will benefit Variable Account-3 and the owners of the Contracts.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. Nationwide will maintain at its administrative offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

2. Nationwide will maintain at its administrative offices and make available to the Commission a memorandum setting forth the basis for the conclusion that Variable Account-3's distribution financing arrangement may benefit Variable Account-3 and the owners of the Contracts.

3. Variable Account-3 will invest only in management investment companies each of which undertakes, in the event such company adopts a plan under Rule 12b-1 to finance distribution expenses, to have a board of trustees (or directors), a majority of whom are not interested persons of the company, approve any such plan under Rule 12b-1.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-8414 Filed 4-15-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Environmental Impact Statement:
South Union Township, Fayette
County, PA**

AGENCY: Federal Highway
Administration (FHWA) DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Fayette County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

George J. Catselis, District Engineer,
Federal Highway Administration, 228
Walnut Street, P.O. Box 1086,
Harrisburg, Pennsylvania 17108-1086,
Telephone (717)782-3411 or C. Vance
Dei Cas, District Engineer, Pennsylvania
Department of Transportation,
Engineering District 12-0, North Gallatin
Avenue Extension, P.O. Box 459,
Uniontown Pennsylvania 15401,
Telephone (412)439-7340.

SUPPLEMENTARY INFORMATION: The
Federal Highway Administration
(FHWA), in cooperation with the
Pennsylvania Department of
Transportation (PennDOT), will prepare
an Environmental Impact Statement for
a proposal to complete the fourth and
final section of the Uniontown Bypass,
S.R. 6040, Section A04, which will
alleviate traffic flow problems by
diverting traffic, particularly large

trucks, around the community of
Hopwood and the city of Uniontown.
Located in southwestern Pennsylvania,
the proposed project is a four-lane
limited access highway approximately
3.4 miles in length. The project begins in
South Union Township, just south of the
city of Uniontown, at the existing
terminus of the Uniontown Bypass,
extends eastward, and ends in South
Union Township, southeast of Hopwood
on U.S. 40 at Summit Mountain.
Alternatives under construction include
(1) taking no action, and (2) constructing
a four-lane limited access highway on
new location. Design variations of grade
and alignment will be incorporated into,
and studied with the build alignment.
The following areas will be investigated
for the project: socioeconomics and land
use, Section 4(f) resources, terrestrial
ecology, wetlands, water quality,
archeological and historic resources,
construction impacts, air quality, noise,
energy, visual quality, floodplains,
aquatic ecology, hazardous waste,
farmlands, soils and geology,
preliminary design and cost, traffic,
groundwater, and threatened and
endangered species. Public involvement
and interagency coordination will be
maintained throughout the development
of the Environmental Impact Statement.
A Plan of Study and an invitation to
scoping meetings will be distributed to
appropriate federal, state and local
agencies, and to private organizations
and citizens who express interest in the
proposal. Public meetings, public plans
displays, and a public hearing will be

conducted to obtain formal public input
on the findings of the environmental and
engineering studies.

To insure that the full range of issues
related to the proposed action are
addressed and that all significant issues
are identified, comments or questions
concerning this action and the
Environmental Impact Statement should
be directed to the FHWA or PennDOT
at the addresses listed above. (Catalog
of Federal Domestic Assistance Program
Number 20.205, Highway Planning and
Construction. The regulations
implementing Executive Order 12372
regarding intergovernmental
consultation on Federal programs and
activities apply to this program.)

George L. Hannon,

*Assistant Division Administrator, Harrisburg,
Pennsylvania.*

[FR Doc. 88-8396 Filed 4-15-88; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration**Change of Name of Approved Trustee**

Notice is hereby given that effective
November 1, 1986, Shawmut Bank of
Boston, N.A., Boston, Massachusetts,
changed its name of Shawmut Bank,
N.A.

Dated: April 12, 1988.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 88-8385 Filed 4-15-88; 8:45 am]

BILLING CODE 4910-81-M

Sunshine Act Meetings

Federal Register

Vol. 53, No. 74

Monday, April 18, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

AFRICAN DEVELOPMENT FOUNDATION

Board of Directors Meeting

TIME: 12:00-2:00 p.m.

PLACE: African Development Foundation, 1625 Massachusetts Avenue, NW., Suite 600, Washington, DC 20036.

DATE: Friday, May 6, 1988.

STATUS: Open.

Agenda

1. Chairman's Report
2. President's Report
3. New Business
4. Old Business
5. Other

CONTACT PERSON FOR MORE

INFORMATION: Mrs. Janis McCollim, 673-3916.

Leonard H. Robinson, Jr.,

President.

[FR Doc. 88-8460 Filed 4-14-88; 10:50 am]

BILLING CODE 6116-01-M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, April 21, 1988.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Request for Exception to 16 CFR 1031.5

The Commission will consider two requests for exceptions to Commission regulations concerning staff membership and participation in councils or committees of voluntary standards organizations.

Closed to the Public

2. Compliance Status Report

The staff will brief the Commission of the status of various compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office

of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301-492-6800.

April 13, 1988.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 88-8429 Filed 4-13-88; 4:25 pm]

BILLING CODE 6355-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:31 a.m. on Tuesday, April 12, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider matters relating to the possible closing of certain insured banks.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Chairman L. William Seidman, concurred in by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to the public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 13, 1988.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Assistant Executive Secretary (Operations).

[FR Doc. 88-8439 Filed 4-13-88; 4:42 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 12:03 p.m. on Wednesday, April 13, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to an assistance

agreement pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: April 13, 1988.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Assistant Executive Secretary (Operations).

[FR Doc. 88-8496 Filed 4-14-88; 11:52 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on April 13, 1988, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C. C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the application of The Bank of Casey, Casey, Illinois, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in Martinsville State Bank, Martinsville, Illinois, and for consent to establish the two offices of Martinsville State Bank as branches of The Bank of Casey.

The Board further determined, by the same majority vote, that no earlier

notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: April 13, 1988.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Assistant Executive Secretary (Operations).

[FR Doc. 88-8497 Filed 4-14-88; 11:52 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: Tuesday, April 19, 1988, 2:00 p.m.

PLACE: 1776 G Street, NW., Board Room, Third Floor, Washington, DC 20006.

STATUS: Closed.

CONTACT PERSON FOR MORE

INFORMATION: Alan Hausman, 1759 Business Center Drive, P.O. Box 4115, Reston, Virginia 22090, (703) 759-8405.

MATTERS TO BE CONSIDERED:

Closed Minutes of March 7, 1988 and March 11, 1988 Board of Directors' Meetings
Closed President's Report
Closed Management Delegations
Closed TMIC
Closed Repurchase Transactions
Closed Financial Report

Date sent to Federal Register: April 14, 1988.

Maud Mater,

Secretary.

[FR Doc. 88-8505 Filed 4-14-88; 1:28 pm]

BILLING CODE 6719-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, April 20, 1988.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Consideration of staff recommendation to amend or repeal Retail Food Store Advertising and Marketing Practices Rule.

CONTACT PERSON FOR MORE

INFORMATION. Susan B. Ticknor, Office

of Public Affairs: (202) 326-2179; Recorded Message: (202) 326-2711.

Emily H. Rock,

Secretary.

[FR Doc. 88-8454 Filed 4-14-88; 10:46 am]

BILLING CODE 6750-01-M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 9:30 a.m., Monday, May 2, 1988.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW., Washington, DC 20570.

STATUS: Open to public observation.

MATTERS TO BE CONSIDERED:

Rulemaking—29 CFR Part 103 (Collective-Bargaining Units in the Health Care Industry).

CONTACT PERSON FOR MORE

INFORMATION: John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, DC 20570, Telephone: (202) 254-9430.

Dated: Washington, DC, April 14, 1988.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 88-8471 Filed 4-14-88; 10:51 am]

BILLING CODE 7545-01-M

POSTAL SERVICE BOARD OF GOVERNORS Vote To Close Meeting

At its meeting on April 4, 1988, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for May 2, 1988, in Washington, DC. The members will consider certain mail classification matters that were deferred in the March 22, 1988, Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes.

The meeting is expected to be attended by the following persons: Governors Griesemer, Hall, Nevin, Peters, Pace, Ryan and Setrakian; Postmaster General Frank; Deputy Postmaster General Coughlin; Secretary to the Board Harris; and General Counsel Cox.

The Board determined that pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39,

Code of Federal Regulations, discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act, [5 U.S.C. 552b(b)], because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board has determined further that pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(3) and (10) of title 5 and section 410(c)(4) of title 39, United States Code; and § 7.3(c) and (j) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

David F. Harris,

Secretary.

[FR Doc. 88-8472 Filed 4-14-88; 10:58 am]

BILLING CODE 7710-12-M

TENNESSEE VALLEY AUTHORITY

Meeting No. 1401

TIME AND DATE: 10:00 a.m. (CDT), April 20, 1988.

PLACE: University Center, Exhibit Hall B, University of Alabama, Huntsville, Alabama.

STATUS: Open.

Agenda

Approval of minutes of meeting held on March 16, 1988.

Action Items**Old Business**

*1. Modifications of the fiscal year 1988 capital budget financed from power proceeds and borrowings—Upgrade sewage treatment service capabilities at Sequoyah Nuclear Plant.

New Business**A—Budget and Financing**

*A1. Modifications of the fiscal year 1988 capital budget financed from power proceeds and borrowings relating to Browns Ferry Nuclear Plant—(1) Scram frequency reduction, (2) Capillary tubing seismic qualifications, (3) Security system project, (4) Drywell fire restoration project, (5) Reactor water cleanup pump enhancements, (6) Central alarm and public address system, (7) Unit 2 restart test program, (8) Unit 2 condenser retubing (9) Unit 2 individual plant evaluation, (10) Detailed control room design review unit 2 restart, (11) Replace torus water level transmitters, (12) Install air dryers to diesel generators air start system, (13) Secondary containment penetration evaluation, (14) Process instrumentation upgrade—ion chromatographs, (15) Replace unit preferred transformer with a voltage regulating transformer, (16) Appendix J, and (17) Anticipated transient without scram.

A2. Modification of the capital budget financed from power proceeds and borrowings for fiscal year 1988—Widows Creek Unit 7 radiant reheater upper waterwall, extend sidewall and roof.

A3. Modification of the capital budget financed from power proceeds and borrowings for fiscal year 1988—PSCC-Wilson/PSCC-Volunteer Microwave Radio System—Replace equipment at various power generating and substation sites.

A4. Adoption of the Tennessee Valley Authority financial statements for the fiscal year ended September 30, 1987.

C—Power Items

C1. Supplement to Contract No. TV-38655A with NUS Corporation which will allow TVA to continue its active participation in the Licensing Information Service program.

C2. Letter agreement with Alabama Power Company extending the term of various agreements providing for concurrent power exchange arrangements.

C3. Supplement to subagreement under the Electric Power Research Institute General Agreement No. TV-50942A: Solid oxide fuel cell test project.

C4. Authorization to provide additional funds under Cooperative Agreement No. TV-65580A with Flour Constructors, Inc., for erection services for the 160-MW Atmospheric Fluidized Bed Combustion Demonstration Plant Project.

C5. Arrangement with MCI Telecommunications Corporation on the use of TVA groundwires for a fiber optics telecommunications system.

D—Personnel Items

D1. Supplement to Personal Services Contract No. TV-73786A with ERCI Inc. for technical assistance in the review, development, and improvement of the effectiveness of TVA's Quality Assurance Program, requested by the Office of Nuclear Power.

D2. Supplement to Personal Services Contract No. TV-72165A with Stone & Webster Engineering Corporation, Cherry Hill, New Jersey, for general engineering, design, and architectural and field construction engineering services related to Browns Ferry Nuclear Plant, requested by the Office of Nuclear Power.

D3. Supplement to Personal Services Contract No. TV-61664A with Massachusetts Institute of Technology providing for continuation of Phase II of a ground water transport study, requested by the Division of Air and Water Resources.

E—Real Property Transactions

E1. Filing of Condemnation Cases.

E2. Real Property Transactions Relating to TVA Reservoir Land—(1) Grant of permanent easement to the City of Hiwassee, Georgia, for a municipal water plant, affecting a total of 3.0 acres of Chatuge Reservoir land in Towns County, Georgia—Tract No. XTCHR-28WP; and (2) Abandonment of TVA's interest in a road right-of-way, affecting approximately 0.8 acre adjacent to Fort Loudoun Reservoir in Loudon County, Tennessee—Tract Nos. FL-92 and FL-93.

F—Unclassified

*F1. Contract with the Mississippi Energy and Transportation Board Covering Arrangements for Participation in a Project Relating to the Development and Implementation of a Biomass Energy Program for the State of Mississippi.

F2. Supplement to Contract No. TV-69275A with Valley Information Systems Association covering the development of low-cost methods of procuring computer hardware and

low-cost software to assist Mississippi county governments in implementing fiscal management functions.

F3. Supplement to Contract No. TV-73318A between TVA and State of Alabama, Department of Industrial Relations providing for cooperation in a project to reclaim abandoned coal mine lands.

F4. Subagreement to Contract No. TV-63259A between TVA and the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, providing for TVA assistance in development of a Bond Release Training Program.

F5. Supplement to Contract No. TV-72444A between TVA and U.S. Army Engineer District, St. Louis, providing for cooperation in conducting a transportation rate study.

F6. Supplement to subagreement to Memorandum of Agreement No. TV-23923A between TVA and U.S. Department of the Army, Corps of Engineers, covering arrangements for TVA to perform engineering and design work for rehabilitation of Wilson Auxiliary Lock.

F7. Agreement No. TV-74490A with U.S. Army Corps of Engineers, Little Rock Arkansas (USACE), to allow TVA to perform a demonstration project that will identify nonpoint source pollution sources on the Beaver Lake Watershed in northwestern Arkansas for USACE.

F8. Supplements to Memorandum of Understanding (TV-71249A) between TVA and Directorate of Engineering and Housing for TVA support to the United States Army Forces Command, in connection with Energy Resources Management.

F9. Proposed changes to rules and regulations of the Retirement System, terms and conditions of the Voluntary Retirement Savings and Investments Plan, the provisions of the TVA Savings and Deferral Retirement Plan (401(k) Plan), and the addition of a new savings fund to the savings plan.

CONTACT PERSON FOR MORE

INFORMATION: Alan Carmichael, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: April 13, 1988.

W.F. Willis,

General Manager.

[FR Doc. 88-8493 Filed 4-14-88; 11:24 am]

BILLING CODE 8120-01-M

*These items approved by individual Board members. This would give formal ratification to the Board's action.

Corrections

Federal Register

Vol. 53, No. 74

Monday, April 18, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

48 CFR Parts 439 and 452

[Agriculture Acquisition Circular No. 2]

Acquisition Regulation; Miscellaneous Amendments

Correction

In rule document 88-4183 beginning on page 6062 in the issue of Monday, February 29, 1988, make the following corrections:

439.7001 [Corrected]

1. On page 6068, in the second column, in the heading to 439.7001, remove "Blank" and add "Blanket".

452.236-77 [Corrected]

2. On page 6085, in the first column, in the heading to 452.236-77, remove "Energy" and add "Emergency".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPTS-400002A; FRL 3298-2]

Toxic Chemical Release Reporting; Community Right-to-know

Correction

In rule document 88-3027 beginning on page 4500 in the issue of Tuesday, February 16, 1988, make the following corrections:

1. On page 4500, in the second column, in the second complete paragraph, in the 16th line, after "of" insert "a".

2. On the same page, in the third column, in the eighth complete

paragraph, in the last line, after "years" insert "to".

3. On page 4503, in the first column, in the first complete paragraph, in the sixth line, "operators" should read "operates".

4. On page 4505, in the second column, in the first complete paragraph, in the third line, after "for" insert "a".

5. On page 4507, in the first column, in the last paragraph, in the 10th line, after "result" insert "from a chemical reaction that occurs upon end use of other chemical substances".

6. On page 4512, in the first column, in the second complete paragraph, in the 18th line, "property" should read "properly".

7. On the same page, in the second column, in the third complete paragraph, in the sixth line, remove the second "report".

8. On page 4513, in the first column, in the 10th line, "provide" should read "provided".

9. On page 4523, in the third column, in the second line, "an" should read "and".

§ 372.30 [Corrected]

10. On page 4528, in the first column, in § 372.30(d), in the third line, "occurred" was misspelled, and in the seventh line, "of" should read "or".

§ 372.45 [Corrected]

11. On page 4529, in the second column, in § 372.45(c)(4), in the third line, "previously" was misspelled.

§ 372.65 [Corrected]

12. In § 372.65(a), in the table, make the following corrections:

a. On page 4530, the 31st line should read "Benzal chloride".

b. On the same page, the 41st line should read "Bis(2-chloroethyl) ether".

c. On the same page, the 42nd line should read "Bis(chloromethyl) ether".

d. On the same page, the 43rd line should read "Bis(2-chloro-1-methylethyl) ether".

e. On the same page, the 44th line should read "Bis(2-ethylhexyl) adipate".

f. On the same page, the 47th line should read "1,3-Butadiene".

g. On page 4531, the 20th line should read "Carbaryl [1-Naphthalenol, methylcarbamate]".

h. On the same page, the 26th line should read "Chlordane [4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-]".

i. On the same page, the 38th line should read "Chlorothalonil [1,3-Benzenedicarbonitrile, 2,4,5,6-tetrachloro-]".

j. On the same page, the 51st line should read "2,4-D [Acetic acid, (2,4-dichlorophenoxy)-]".

k. On the same page, the 80th line should read "Di-(2-ethylhexyl) phthalate (DEHP)".

1. On page 4532, the 24th line from the bottom should read "4,4'-Methylenebis(2-chloroaniline) (MBOCA)".

m. On page 4533, in the 22nd line from the bottom, the CAS No. should read "62-56-6".

n. On the same page, the second line from the bottom should read "Tris(2,3-dibromopropyl) phosphate".

13. In § 372.65(b), in the table, make the following corrections:

a. On page 4536, the 14th line from the bottom should read "Calcium cyanamide".

b. On page 4537, the 14th line should read "Tetrachlorvinphos [Phosphoric acid, 2-chloro-1-(2,4,5-trichlorophenyl)ethenyl dimethyl ester]".

c. On the same page, in the 20th line, "Thorium" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 795 and 799

[OPTS-42097; FRL-3340-9]

Isopropanol; Proposed Test Rule

Correction

In proposed rule document 88-5721 beginning on page 8638 in the issue of Wednesday, March 16, 1988, make the following corrections:

1. On page 8648, in the third column, under VIII. Public Meetings, in the first paragraph, in the seventh line, "of" should read "in".

§ 795.231 [Corrected]

2. On page 8651, in the second column, in § 795.231(c)(2)(ii), after paragraph "(B)", the next designated paragraph should be "(C)".

3. On the same page, in the third column, in § 795.231(c)(4)(i), in the second line, "For" should read "Four".

§ 799.2325 [Corrected]

4. On page 8652, in the second column, in § 799.2325(a), in the first line, remove the second "of".

5. On page 8653, in the second column, in § 799.2325(c)(6)(i)(C)(2)(i), in the first line, "Treatment" was misspelled.

6. On the same page, in the same column, in § 799.2325(c)(6)(i)(D)(1), in the fifth line, "of" should read "if".

BILLING CODE 1505-01-D

Fast Track Report

Monday
April 18, 1988

Part II

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research Guidelines
and Advisory Committee Meeting;
Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892, on June 3, 1988, from approximately 9 a.m. to adjournment at approximately 5 p.m. This meeting will be open to the public to discuss:

- Amendment of Guidelines;
- Proposed major actions;
- Other matters to be considered by the Committee.

Attendance by the public will be limited to space available. Members of the public wishing to speak at the meeting may be given such an opportunity at the discretion of the Chair.

Dr. William J. Gartland, Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, 12441 Parklawn Drive, Suite 58, Rockville, Maryland 20852, telephone (301) 770-0131, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information. A summary of the meeting will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of*

Federal Domestic Assistance are affected.

Dated: April 5, 1988.
Betty J. Beveridge,
Committee Management Officer, National
Institutes of Health.
[FR Doc. 88-8367 Filed 4-15-88; 8:45 am]
BILLING CODE 4140-01-M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of Proposed Actions Under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposed actions to be taken under the National Institutes of Health (NIH) Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. These proposals will be considered by the Recombinant DNA Advisory Committee (RAC) at its meeting on June 3, 1988. After consideration of these proposals and comments by the RAC, the Director of the National Institutes of Health will issue a decision on these proposals in accord with the NIH Guidelines.

DATE: Comments received by May 24, 1988, will be reproduced and distributed to the RAC for consideration at its June 3, 1988, meeting.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant NDA Activities, 12441 Parklawn Drive, Suite 58, Rockville, MD 20852. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION: Background documentation and additional information can be obtained from the Office of Recombinant DNA Activities, 12441 Parklawn Drive, Suite 58, Rockville, Maryland 20852, (301) 770-0131.

SUPPLEMENTARY INFORMATION: The NIH will consider the following actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules:

I. Proposed Amendment of Section I-C

Section I-C of the NIH Guidelines currently reads as follows:

"I-C General Applicability.
"The Guidelines are applicable to all recombinant DNA research within the United States or its territories which is

conducted at or sponsored by an institution that receives any support for recombinant DNA research from the National Institutes of Health (NIH). This includes research performed by the NIH directly.

"An individual receiving support for research involving recombinant DNA must be associated with or sponsored by an institution that can and does assume the responsibilities assigned in these Guidelines.

"The Guidelines are also applicable to projects done abroad if they are supported by NIH funds. If the host country, however, has established rules for the conduct of recombinant DNA projects, then a certificate of compliance with those rules may be submitted to NIH in lieu of compliance with the NIH Guidelines. The NIH reserves the right to withhold funding if the safety practices to be employed abroad are not reasonably consistent with the NIH Guidelines.

In a letter dated January 9, 1987, Mr. Edward Lee Rogers, Counsel for the Foundation on Economic Trends, and Mr. Jeremy Rifkin, Foundation on Economic Trends, Washington, D.C., proposed that the following text be inserted after the first sentence of the third paragraph of Section I-C:

"For purposes of the preceding sentence, the term 'project' includes any research or development of the recombinant organism or other product or process in question, including all such work that is reasonably foreseeable when the NIH support is received. NIH support includes both money grants and any type of in-kind support, including research conducted directly by NIH, supplies, equipment, the use of facilities, and biological research materials. NIH support has been given where the source of funds or in-kind support is, directly or indirectly, the NIH."

This proposed amendment of Section I-C was initially published for comment in the *Federal Register* of March 11, 1987 (52 FR 7525), prior to a scheduled RAC meeting on June 15, 1987. The June 15, 1987, meeting was postponed and rescheduled on September 21, 1987. Accordingly, this proposed amendment was published again for comment in the *Federal Register* of August 11, 1987 (52 FR 29800).

After extensive discussion at its meeting of September 21, 1987, the RAC voted to establish a working group to make recommendations regarding international projects and to report back to the full RAC.

A Working Group on International Projects met at the NIH on February 1, 1988. After extensive discussion, the

working group voted seven in favor, none opposed, and no abstentions that the following proposed revision of the last paragraph of Section I-C be published for comment:

"The NIH Guidelines are also applicable: (1) To projects done abroad if they are supported by NIH funds or (2) to research done abroad if it involves deliberate release into the environment or testing in humans of materials containing recombinant DNA developed with NIH funds and the research is a direct extension of the development process. If the host country, however, has established rules for the conduct of recombinant DNA projects then a written assurance of compliance with those rules may be submitted to NIH in lieu of compliance with the NIH Guidelines. Alternatively, if the host country does not have such rules, written acceptance by an appropriate government office of the host country is necessary in lieu of compliance with the NIH Guidelines. The NIH reserves the right to withhold funding if the safety practices to be employed abroad are not reasonably consistent with the NIH Guidelines."

II. Large-Scale Production Involving *Cephalosporium Acremonium* Strain LU4-79-6

In a letter dated December 4, 1987, Dr. Mark A. Fogelson of Eli Lilly and Company, Indianapolis, Indiana, requests approval to conduct large-scale experiments and production involving *Cephalosporium acremonium* strain LU4-79-6 under less than Biosafety Level 1—Large Scale (BL1-LS) conditions. Information on *C. acremonium* and construction of strain LU4-79-6 are provided in the submission.

III. Proposed Amendment of Section III-B-5

In a letter dated March 24, 1988, Dr. Joseph R. Fordham of Novo Laboratories, Inc., Danbury, Connecticut, requests that Section III-B-5, Experiments Involving More Than 10 Liters of Culture, be amended by adding the following paragraph:

"For large-scale (LS) fermentation experiments, involving non-pathogenic and non-toxicogenic recombinant strains of host organisms having an extended history of safe industrial use the appropriate physical containment conditions need be no greater than those for the host organism unmodified by recombinant DNA techniques; the IBC can specify higher containment if it deems it necessary."

Justification for the proposed change is included in the submission.

IV. Proposed Amendment of NIH Guidelines Regarding Transgenic Animals

The RAC was asked by the NIH Institutional Biosafety Committee to consider guidelines for experiments involving transgenic animals that do not technically fall under the NIH Guidelines because the DNA introduced into the animal is not "recombinant DNA" as defined by the Guidelines. The issue is whether these types of animals should be covered by the NIH Guidelines for Research Involving Recombinant DNA Molecules or other guidelines.

The Working Group on Transgenic Animals met at NIH on March 28, 1988, and recommended a series of amendments to the NIH Guidelines.

Background. On June 26, 1986, the U.S. Department of Agriculture (USDA) issued an "Advanced Notice of Proposed USDA Guidelines for Biotechnology Research (51 FR 23367). A notice in the December 9, 1986, **Federal Register** (51 FR 44397) stated that USDA would be proposing new provisions relating to agricultural research for inclusion in the NIH Guidelines in lieu of the Advanced Notice of Proposed USDA Guidelines for Biotechnology Research published on June 26, 1986. USDA organized a workshop in Arlington, Virginia, on December 13-15, 1986, in part to develop proposed guidelines for plants and animals. Proposed changes to the NIH Guidelines developed by USDA were reviewed and revised by an NIH RAC Working Group on Revision of the Guidelines which met on June 22 and July 16, 1987.

In this proposal, language was developed to modify Sections II and III of the NIH Guidelines to refer specifically to containment for research with whole plants and animals. Containment is described in the proposed amendments Appendix P for plants and Appendix Q for animals. The suggested modifications and additions will provide guidance to the Institutional Biosafety Committees (IBCs) and Principal Investigators (PIs) to assure safe conduct of such experiments.

The proposed changes were published in the **Federal Register** of August 11, 1987 (52 FR 29800), for public comment.

The proposed modifications were discussed extensively by the RAC at its September 21, 1987, meeting. During the discussion, the RAC recommended a number of changes in the language as published for comment. The NIH is in the process of promulgating these proposed changes. Paragraph numbers cited below refer to the paragraphs as numbered in the August 11, 1987,

Federal Register announcement (52 FR 29800).

A. On September 21, 1987, the RAC recommended that paragraph 7 as published for comment in the **Federal Register** of August 11, 1987, be incorporated into Section II of the NIH Guidelines as follows:

"Biosafety Level 1 for animals (BL1-N) describes containment which is used for animals in which the germ line has been modified through recombinant DNA techniques (transgenic animals) and is designed to eliminate the possibility of sexual transmission of the modified genome or transmission of recombinant-DNA-derived viruses known to be transmitted only vertically (i.e., transmitted from animal parent to offspring only by sexual reproduction). Procedures, practices, and facilities follow classical methods of avoiding genetic exchange between animals."

The Working Group on Transgenic Animals on March 28, 1988, recommended that "(transgenic animals)" be deleted from this paragraph.

B. The Working Group on Transgenic Animals on March 28, 1988, recommended that the following new sentence be added at the beginning of Section III-B-3 before the paragraph entitled "Caution":

"Experiments involving the introduction of eukaryotic viral genomes into the germ line of animals are covered in Section III-B-4."

C. On September 21, 1987, the RAC recommended that the title of Section III-B-4 as published for comment in paragraph 32 in the **Federal Register** of August 11, 1987, be changed to read as follows:

"Recombinant DNA Experiments Involving Whole Animals."

The Working Group on Transgenic Animals on March 28, 1988, recommended that the title of Section III-B-4 be amended to read as follows:

"Experiments Involving Whole Animals, Including Transgenic Animals."

D. On September 21, 1987, the RAC recommended that paragraph 34 as published for comment in the **Federal Register** of August 11, 1987, be incorporated into Section III-B-4 of the NIH Guidelines as follows:

"This section covers experiments involving whole animals, both those in which the animal's genome has been altered by recombinant DNA techniques and experiments involving viable recombinant-DNA-modified microorganisms tested on whole animals. For the latter, other than viruses which are only vertically

transmitted, the experiments may not be carried out at BL1-N containment; a minimum containment of BL1 or BL2-N is required."

The Working Group on Transgenic Animals on March 28, 1988, recommended that this section be amended to read as follows:

"This section covers experiments involving whole animals, both those in which the animal's genome has been altered by stable introduction of DNA into the germ line (transgenic animals) and experiments involving viable recombinant-DNA-modified microorganisms tested on whole animals. For the latter, other than viruses which are only vertically transmitted, the experiments may not be carried out at BL1-N containment; a minimum containment of BL1 or BL2-N is required."

"**Caution:** Special care should be used in the evaluation of containment conditions for some experiments with transgenic animals. For example, such experiments might lead to the creation of novel mechanisms or increased transmission of a recombinant pathogen or production of undesirable traits in the host animal. In such cases, serious consideration should be given to increasing the containment conditions."

E. On September 21, 1987, the RAC recommended that a modified paragraph 37 as published for comment in the **Federal Register** of August 11, 1987, be incorporated as Section III-B-4-a of the NIH Guidelines as follows:

"Recombinant DNA, or RNA molecules derived therefrom, from any source except for a eukaryotic viral genome may be transferred to any non-human vertebrate or any invertebrate organism and propagated under conditions of physical containment comparable to BL1 or BL1-N and appropriate to the organism under study [2]. Animals containing sequences from viral vectors, if the sequences do not lead to transmissible infection either directly or indirectly as a result of complementation or recombination in animals, may be propagated under conditions of physical containment comparable to BL1 or BL1-N and appropriate to the organism under study. For experiments involving recombinant

DNA modified Class 2, 3, 4, or 5 organisms (1) using whole animals, see Section III-B-1."

The Working Group on Transgenic Animals on March 28, 1988, recommended that this section be amended to read as follows:

"Recombinant DNA, or DNA or RNA molecules derived therefrom, from any source except for a eukaryotic viral genome may be transferred to any non-human vertebrate or any invertebrate organism and propagated under conditions of physical containment comparable to BL1 or BL1-N and appropriate to the organism under study [2]. Animals containing sequences from viral vectors, if the sequences do not lead to transmissible infection either directly or indirectly as a result of complementation or recombination in animals, may be propagated under conditions of physical containment comparable to BL1 or BL1-N and appropriate to the organism under study. Experiments involving the introduction of other sequences from eukaryotic viral genomes into animals are covered under III-B-4-b. For experiments involving recombinant DNA modified Class 2, 3, 4, or 5 organisms (1) using whole animals, see Section III-B-1."

F. On September 21, 1987, the RAC recommended that paragraph 41 as published for comment in the **Federal Register** of August 11, 1987, be incorporated as Section III-B-4-b of the NIH Guidelines, as follows:

"For experiments involving whole animals and not covered by Section III-B-1 or Section III-B-4-a, the appropriate containment will be determined by the IBC [22,23]."

The Working Group on Transgenic Animals on March 28, 1988, recommended that this section be amended to read as follows:

"For experiments involving recombinant DNA, or DNA or RNA derived therefrom, involving whole animals, including transgenic animals, and not covered by Section III-B-1 or Section III-B-4-a, the appropriate containment will be determined by the IBC [22]."

V. Proposed Amendment of Appendix A To Include *Pseudomonas mendocina*

In a letter dated March 28, 1988, Dr. Burt D. Ensley of AMGen, Thousand Oaks, California, requests that *Pseudomonas mendocina* be included in Sublist A of Appendix A of the NIH Guidelines. Data in support of the request are included in the submission.

VI. Proposed Amendment of Appendix C-IV To Include *Bacillus licheniformis*

In a letter dated March 30, 1988, Dr. Joseph R. Fordham of Nova Laboratories, Inc., Danbury, Connecticut, request that *Bacillus licheniformis* be included to the title and to the first sentence of Appendix C-IV of the NIH Guidelines. This section would be amended to read as follows:

Appendix C-IV—Experiments Involving *Bacillus Subtilis* or *Bacillus licheniformis* Host-Vector Systems

"Any asporogenic *Bacillus subtilis* or *Bacillus licheniformis* strain. . ."

Data in support of the request are included in the submission.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: April 5, 1988.

James C. Hill,

Acting Director, National Institute of Allergy and Infectious Diseases.

[FR Doc. 88-8368 Filed 4-15-88; 8:45 am]

BILLING CODE 4140-01-M

Food and Drug Administration

Monday
April 18, 1988

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 179

Irradiation in the Production, Processing, and Handling of Food; Labeling Requirements; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 87N-0363]

Irradiation in the Production, Processing, and Handling of Food; Labeling

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulation on the labeling of retail packages of irradiated food to extend for 2 years the requirement that, in addition to the irradiation logo, the words "Treated with radiation" or "Treated by irradiation" must be placed prominently on labels, labeling, or, in some cases, on counter signs or cards (or other appropriate devices) for all foods that have been irradiated. This extension of the wording requirements will provide time to inform consumers about the meaning of the logo representing food irradiation. The requirements will remain in effect until April 18, 1990.

DATE: Effective April 14, 1988; except as to any provisions that may be stayed by the filing of proper objections; objections by May 18, 1988.

ADDRESS: Written objections and requests for a hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 18, 1988 (53 FR 4856), FDA proposed to amend the regulation in § 179.26(c)(4) (21 CFR 179.26(c)(4)) on the use of irradiation in the production, processing, and handling of food to extend for 2 years the expiration date of the current wording requirements. The regulation requires that the label and labeling of retail packages of foods that have been irradiated bear the appropriate internationally used logo and the words "Treated with radiation" or "Treated by irradiation" (§ 179.26(c)(1)). For foods not in package form, the required logo and phrase are to be displayed with either the labeling of the bulk container or on a counter sign, card, or other appropriate device (§ 179.26(c)(2)). The

wording requirements would have expired on April 18, 1988, unless specifically extended by notice and comment rulemaking.

Because most consumers have had no opportunity to associate the required information logo with irradiation treatment, FDA proposed to amend § 179.26(c)(4) by extending the expiration date of the wording requirements in paragraphs (c) (1) and (2) of § 179.26 from April 18, 1988, to April 18, 1990.

Comments

The agency received 132 comments. Of these comments, 115 were filed within the comment period, and 17 additional comments were filed shortly after the comment period closed on March 21, 1988.

All comments agreed on the continued need for a wording requirement applicable to the labeling of irradiated foods. Thirty-two of the comments supported FDA's specific proposal. Ninety comments stated that the agency should have proposed more than a 2-year extension of the current labeling requirement. Most of these comments requested a labeling requirement with no expiration date, and several sought to establish a new requirement applicable to irradiated ingredients in nonirradiated foods. Ten comments discussed concerns relevant to food irradiation but did not discuss issues specific to the proposal.

While FDA agrees that it may need to reconsider this issue again in 2 years, it sees no need to make all portions of the labeling requirement permanent at this time. The agency finds that the 2-year extension will provide sufficient time either for consumers to become familiar with the logo or for FDA to determine that there is a continued need for the requirement. If the agency tentatively concludes that the requirement is needed beyond April 18, 1990, it will propose to extend again the expiration date.

Comments that addressed promulgation of a new labeling requirement for irradiated ingredients, as well as comments on nonlabeling concerns, are beyond the scope of this rulemaking. The proposal addressed only the extension of the wording requirements, and other issues cannot be considered in this proceeding.

Objections

Any person who will be adversely affected by this regulation may at any time on or before May 18, 1988, file with the Docket Management Branch (address above) written objections thereto. Each objection shall be

separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the Federal Register.

Agency Action

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. Because this rule merely extends the expiration date for these labeling requirements for 2 years, the agency has determined, in accordance with section 605(b) of the Regulatory Flexibility Act, that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determinations.

In accordance with Executive Order 12291, FDA has previously analyzed the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as defined by the order. The agency has not received any new information or comments that would alter its previous determination.

The agency has previously considered the environmental effects of this rule as announced in the proposed rule (53 FR 4856). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an

environmental impact statement is not required.

List of Subjects in 21 CFR Part 179

Food additives, Food packaging, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING, AND HANDLING OF FOOD

1. The authority citation for 21 CFR Part 179 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10; §§ 179.25 and 179.26 also are issued under secs. 402, 403, 703, 704, 52 Stat. 1046-1048 as amended, 1057, 67 Stat. 477 as amended (21 U.S.C. 342, 343, 373, 374); 21 CFR 5.10, 5.11.

§ 179.26 [Amended]

2. Section 179.26 *Ionizing radiation for the treatment of food* is amended in paragraph (c)(4) by revising "April 18, 1988" to read "April 18, 1990."

Dated: April 12, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-8597 Filed 4-15-88; 9:10 am]

BILLING CODE 4160-01-M

THE HISTORY OF THE
CITY OF BOSTON
FROM 1630 TO 1880
BY
JOHN B. HENNINGSEN
OF THE
BOSTON PUBLIC LIBRARY
PUBLISHED BY THE
BOSTON PUBLIC LIBRARY
1880

Reader Aids

Federal Register

Vol. 53, No. 74

Monday, April 18, 1988

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-5237

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230
---------------------	----------

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, APRIL

10519-10868	1
10869-11030	4
11031-11238	5
11239-11486	6
11487-11632	7
11633-11814	8
11815-11990	11
11991-12136	12
12137-12370	13
12371-12508	14
12509-12670	15
12671-12758	18

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:	
5784	10519
5785	10521
5786	10523
5787	11031
5788	11489
5789	11809
5790	11811
5791	11813
5792	12365
5793	12367
5794	12369
5795	12671
5796	12673
Executive Orders:	
12634	11041
12635	12134
Administrative Orders:	
Memorandums:	
Mar. 31, 1988	11039
Presidential Determinations:	
No. 88-10 of	
February 29, 1988	11487

917	11669, 12691
918	11867
946	12423
949	10887
1030	10894
1065	12424
1106	11092
1497	11474
1498	11474
1530	11098
1700	11511
1701	10545
1900	12695
1980	12695

8 CFR	
Proposed Rules:	
3	11300
208	11300
236	11300
242	11300
253	11300

9 CFR	
77	11491
92	11043, 12640

Proposed Rules:	
78	12019

10 CFR	
430	10869
600	12137
1010	11240, 12497

Proposed Rules:	
2	11310
50	11311, 12425

12 CFR	
202	11044
205	11046
226	11047, 11055
229	11832
265	11640, 12509
563	11242, 11243
611	12140
615	12140

13 CFR	
308	12510

14 CFR	
Ch. III	11004
39	11246, 11641-11643, 11837, 11838, 12141, 12376, 12511
71	10528, 11020, 11060, 11061, 11839-11841
97	11062, 12377
121	12358
135	12358

Proposed Rules:	
Ch. I	11868

Proposed Rules:	
6	11091
53	10545
54	10545
449	11299
916	12687

7 CFR	
2	11636
300	10525
301	11825
400	10526
724	12675
725	12675
726	12675
907	12371
908	12371
910	10527, 11636, 12509
911	11830
917	11832
929	12373
946	11043
981	12374
1032	11637
1064	11590
1126	11638
1421	11239
3600	11639
3601	11639

Proposed Rules:	
6	11091
53	10545
54	10545
449	11299
916	12687

Proposed Rules:	
Ch. I	11868

Proposed Rules:	
Ch. I	11868

21.....	11869
23.....	11869
27.....	10826, 11162
29.....	10826, 11162
39.....	11674-11676, 11678, 11871, 12427
71.....	10546, 11100, 11101
73.....	11102

15 CFR

370.....	12668
371.....	12668
373.....	12668
378.....	12668
379.....	12668
385.....	12668
399.....	12668

16 CFR

13.....	11247, 12379
Proposed Rules:	
13.....	12534

17 CFR

30.....	11491
200.....	12412
230.....	11841
240.....	11841
Proposed Rules:	
Ch. IV.....	12428
200.....	12429

18 CFR

37.....	11191
154.....	11191
157.....	11644, 11845
389.....	12676, 12677
Proposed Rules:	
272.....	12704
274.....	12704

19 CFR

7.....	12143
--------	-------

20 CFR

10.....	11594
Proposed Rules:	
10.....	11596

21 CFR

179.....	12756
184.....	11247
340.....	11731
444.....	12644, 12658
452.....	12414
510.....	11492
520.....	11063
522.....	11064, 11493
524.....	11064, 12512
540.....	11492
558.....	11065, 11251
561.....	11938, 12640
800.....	11251
803.....	11251
807.....	11251
808.....	11251
809.....	11251
812.....	11251
813.....	11251
820.....	11251
860.....	11251
861.....	11251
862.....	11645

864.....	11251
866.....	11251
876.....	11251
895.....	11251
1002.....	11251
1005.....	11251
1010.....	11251
1020.....	11251
1030.....	11251
1040.....	11251
1050.....	11251
1308.....	10834, 10861, 10869
Proposed Rules:	
133.....	11312
175.....	11402
176.....	11402
177.....	11402
178.....	11402
193.....	11938
561.....	11313

22 CFR

120.....	11494, 12099
121.....	11494, 12099
122.....	11494, 12099
123.....	11494, 12099
124.....	11494, 12099
125.....	11494, 12099
126.....	11494, 12099
127.....	11494, 12099
128.....	11494, 12099
514.....	10528
602.....	10529
706.....	11992

Proposed Rules:

204.....	11872
602.....	12430

23 CFR

650.....	11065
658.....	12145
771.....	11065
1204.....	11255
1205.....	11255

Proposed Rules:

625.....	11875
626.....	11875
1309.....	11679

24 CFR

50.....	11224
200.....	11270
201.....	11997
203.....	10529, 11997
221.....	11224
234.....	11997
236.....	11224
241.....	11224
248.....	11224
Proposed Rules:	
35.....	11164
200.....	11164, 12431
510.....	11164
511.....	11164
570.....	11164
882.....	11164
886.....	11164
889.....	12278
941.....	11164
965.....	11164
968.....	11164

25 CFR

61.....	11271
---------	-------

26 CFR

1.....	11002, 11066, 11162, 11731, 12000, 12149, 12513, 12677, 12678
602.....	11066, 11162, 11731, 12000

Proposed Rules:

1.....	11103, 11876, 12433, 12534, 12705
--------	--------------------------------------

27 CFR**Proposed Rules:**

4.....	12024
12.....	12024

28 CFR

0.....	10870, 10871, 11645
66.....	12099
71.....	11645

29 CFR

102.....	10872
1907.....	12102
1910.....	11414, 12102
2610.....	10530
2622.....	10530
2644.....	10531
2676.....	12514
Proposed Rules:	
516.....	11590, 12497
530.....	11590, 12497
1910.....	11511
1915.....	11511
1917.....	11511
1918.....	11511
2550.....	11886
2580.....	11886

30 CFR

48.....	12415
75.....	11395
250.....	10596, 12227
256.....	10596, 12227
773.....	11606
934.....	11500
Proposed Rules:	
20.....	12250
75.....	12250
77.....	12250, 12253
785.....	11685
823.....	11685
935.....	11887, 12705
948.....	11888

31 CFR**Proposed Rules:**

103.....	11513
----------	-------

32 CFR

388.....	10876
706.....	12515

Proposed Rules:

45.....	12034
---------	-------

33 CFR

84.....	10532
100.....	11502, 12415
117.....	10533, 10534, 12416, 12417
165.....	12417, 12679

Proposed Rules:

100.....	11515, 12434, 12706
110.....	11395, 11515
117.....	11516, 11517, 12434, 12535, 12707, 12708

34 CFR

99.....	11942
600.....	11208
657.....	10820
668.....	11208

Proposed Rules:

105.....	10808
----------	-------

35 CFR

103.....	12516
----------	-------

36 CFR

1202.....	12150
1258.....	12150

38 CFR

36.....	11502
---------	-------

39 CFR**Proposed Rules:**

111.....	11685
----------	-------

40 CFR

22.....	12256
24.....	12256
52.....	11068, 11273, 11655, 11847, 12417
60.....	11590, 12008, 12009, 12498, 12517
61.....	12517
180.....	11071, 11274, 11938, 12151, 12418, 12640
300.....	12680
372.....	12748
704.....	12522
707.....	12522
710.....	12522
712.....	12522
716.....	12522
717.....	12522
720.....	12522
721.....	12522
723.....	12522
750.....	12522
761.....	12522
763.....	12522
790.....	12522
796.....	12522
797.....	12522
799.....	12522

Proposed Rules:

52.....	11314, 11686, 11688, 12161, 12435
116.....	11889
117.....	11889
180.....	10895
261.....	12162
264.....	11742
265.....	11742
268.....	11742
271.....	11742
302.....	11889, 11890
372.....	12035
761.....	11104
763.....	10546
795.....	12748
796.....	11104
799.....	12748

41 CFR

101-25.....	11847
101-40.....	11849

Proposed Rules:

201-33.....	11518
-------------	-------

42 CFR

405.....	11504, 12010
413.....	12016, 12641
416.....	11504
418.....	11504
434.....	12010
435.....	12681
436.....	12681
442.....	11504
482.....	11504

Proposed Rules:

405.....	12037, 12641
412.....	12641
413.....	12641
489.....	12641

43 CFR**Proposed Rules:**

3160.....	11318
-----------	-------

Public Land Orders:

6670.....	10535
6671.....	12419
6672.....	12420
6673.....	12420

44 CFR

67.....	11510, 12152
80.....	11275
82.....	11275
83.....	11275
205.....	12681

Proposed Rules:

61.....	10547
67.....	12536

45 CFR

36.....	11279
79.....	11656
96.....	11656
1611.....	12017

Proposed Rules:

303.....	12041
606.....	10896
1356.....	12436

46 CFR

572.....	11072
----------	-------

Proposed Rules:

Ch. I.....	11440
502.....	12440

47 CFR

0.....	11849
1.....	11851
2.....	10878, 11855
15.....	11861
22.....	11855
43.....	12526
63.....	12526
73.....	11668, 11863, 12152-12154, 12528
90.....	11849, 12154
94.....	11855

Proposed Rules:

Ch. I.....	10549, 10550
43.....	12546
63.....	12546
68.....	12546
73.....	10905, 11690, 12167-12169, 12547-12549

48 CFR

15.....	10828
25.....	12128

31.....	10828, 12128
52.....	10828, 12128
215.....	11073
227.....	10780
242.....	11073
252.....	10780, 11073
439.....	12748
452.....	12748
2804.....	12421
2832.....	12421
2852.....	12421

Proposed Rules:

43.....	11795
47.....	11795
52.....	11795, 12501
916.....	11318
931.....	11318
952.....	11318
1505.....	11519
1506.....	11519

49 CFR

387.....	12158
533.....	11074
571.....	11280, 12528
1160.....	10536

Proposed Rules:

171.....	11320, 12442
172.....	12442
173.....	11320, 12442
174.....	12442
175.....	12442
176.....	12442
177.....	11618, 12442
178.....	12442
179.....	12442
192.....	10906
383.....	12504
391.....	12504
571.....	11105
840.....	11520
1185.....	12443

50 CFR

17.....	10879, 11609, 11612
23.....	12497
285.....	11510
301.....	10536
650.....	12709
672.....	11297
683.....	12712

Proposed Rules:

18.....	12043
228.....	12169
644.....	11321
658.....	12046

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List April 15, 1988

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is \$595.00 domestic, \$148.75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, CHOICE, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	\$10.00	Jan. 1, 1988
3 (1986 Compilation and Parts 100 and 101)	11.00	Jan. 1, 1987
4	14.00	Jan. 1, 1988
5 Parts:		
1-699	14.00	Jan. 1, 1988
700-1199	15.00	Jan. 1, 1988
1200-End, 6 (6 Reserved)	11.00	Jan. 1, 1988
7 Parts:		
0-45	25.00	Jan. 1, 1987
27-45	11.00	Jan. 1, 1988
46-51	16.00	Jan. 1, 1988
52	23.00	Jan. 1, 1988
53-209	18.00	Jan. 1, 1987
210-299	22.00	Jan. 1, 1987
300-399	10.00	Jan. 1, 1987
400-699	15.00	Jan. 1, 1987
700-899	22.00	Jan. 1, 1988
*900-999	26.00	Jan. 1, 1988
1000-1059	15.00	Jan. 1, 1988
1060-1119	12.00	Jan. 1, 1988
1120-1199	11.00	Jan. 1, 1988
*1200-1499	17.00	Jan. 1, 1988
1500-1899	9.50	Jan. 1, 1988
1900-1939	11.00	Jan. 1, 1988
1900-1944	25.00	Jan. 1, 1987
1945-End	26.00	Jan. 1, 1987
8	11.00	Jan. 1, 1988
9 Parts:		
1-199	19.00	Jan. 1, 1988
200-End	16.00	Jan. 1, 1987
10 Parts:		
0-199	29.00	Jan. 1, 1987
51-199	14.00	Jan. 1, 1988
200-399	13.00	Jan. 1, 1987
400-499	13.00	Jan. 1, 1988
*500-End	24.00	Jan. 1, 1988
11	10.00	July 1, 1988
12 Parts:		
1-199	11.00	Jan. 1, 1988
200-219	10.00	Jan. 1, 1988
220-299	14.00	Jan. 1, 1988
300-499	13.00	Jan. 1, 1987
500-End	27.00	Jan. 1, 1987
13	19.00	Jan. 1, 1987
14 Parts:		
1-59	21.00	Jan. 1, 1988
60-139	19.00	Jan. 1, 1988
140-199	9.50	Jan. 1, 1988
200-1199	20.00	Jan. 1, 1988

Title	Price	Revision Date
1200-End	11.00	Jan. 1, 1987
15 Parts:		
0-299	10.00	Jan. 1, 1988
300-399	20.00	Jan. 1, 1987
400-End	14.00	Jan. 1, 1988
16 Parts:		
0-149	12.00	Jan. 1, 1988
*150-999	13.00	Jan. 1, 1988
1000-End	19.00	Jan. 1, 1988
17 Parts:		
1-199	14.00	Apr. 1, 1987
200-239	14.00	Apr. 1, 1987
240-End	19.00	Apr. 1, 1987
18 Parts:		
1-149	15.00	Apr. 1, 1987
150-279	14.00	Apr. 1, 1987
280-399	13.00	Apr. 1, 1987
400-End	8.50	Apr. 1, 1987
19 Parts:		
1-199	27.00	Apr. 1, 1987
200-End	5.50	Apr. 1, 1987
20 Parts:		
1-399	12.00	Apr. 1, 1987
400-499	23.00	Apr. 1, 1987
500-End	24.00	Apr. 1, 1987
21 Parts:		
1-99	12.00	Apr. 1, 1987
100-169	14.00	Apr. 1, 1987
170-199	16.00	Apr. 1, 1987
200-299	5.50	Apr. 1, 1987
300-499	26.00	Apr. 1, 1987
500-599	21.00	Apr. 1, 1987
600-799	7.00	Apr. 1, 1987
800-1299	13.00	Apr. 1, 1987
1300-End	6.00	Apr. 1, 1987
22 Parts:		
1-299	19.00	Apr. 1, 1987
300-End	13.00	Apr. 1, 1987
23	16.00	Apr. 1, 1987
24 Parts:		
0-199	14.00	Apr. 1, 1987
200-499	26.00	Apr. 1, 1987
500-699	9.00	Apr. 1, 1987
700-1699	18.00	Apr. 1, 1987
1700-End	12.00	Apr. 1, 1987
25	24.00	Apr. 1, 1987
26 Parts:		
§§ 1.0-1.60	12.00	Apr. 1, 1987
§§ 1.61-1.169	22.00	Apr. 1, 1987
§§ 1.170-1.300	17.00	Apr. 1, 1987
§§ 1.301-1.400	14.00	Apr. 1, 1987
§§ 1.401-1.500	21.00	Apr. 1, 1987
§§ 1.501-1.640	15.00	Apr. 1, 1987
§§ 1.641-1.850	17.00	Apr. 1, 1987
§§ 1.851-1.1000	27.00	Apr. 1, 1987
§§ 1.1001-1.1400	16.00	Apr. 1, 1987
§§ 1.1401-End	20.00	Apr. 1, 1987
2-29	20.00	Apr. 1, 1987
30-39	13.00	Apr. 1, 1987
40-49	12.00	Apr. 1, 1987
50-299	14.00	Apr. 1, 1987
300-499	15.00	Apr. 1, 1987
500-599	8.00	Apr. 1, 1980
600-End	6.00	Apr. 1, 1987
27 Parts:		
1-199	21.00	Apr. 1, 1987
200-End	13.00	Apr. 1, 1987
28	23.00	July 1, 1987
29 Parts:		
0-99	16.00	July 1, 1987

Title	Price	Revision Date	Title	Price	Revision Date
100-499	7.00	July 1, 1987	61-399	5.50	Oct. 1, 1987
500-899	24.00	July 1, 1987	400-429	21.00	Oct. 1, 1987
900-1899	10.00	July 1, 1987	430-End	14.00	Oct. 1, 1987
1900-1910	28.00	July 1, 1987	43 Parts:		
1911-1925	6.50	July 1, 1987	1-999	15.00	Oct. 1, 1987
1926	10.00	July 1, 1987	1000-3999	24.00	Oct. 1, 1987
1927-End	23.00	July 1, 1987	4000-End	11.00	Oct. 1, 1987
30 Parts:			44	18.00	Oct. 1, 1987
0-199	20.00	July 1, 1987	45 Parts:		
200-699	8.50	July 1, 1987	1-199	14.00	Oct. 1, 1987
700-End	18.00	July 1, 1987	200-499	9.00	Oct. 1, 1987
31 Parts:			500-1199	18.00	Oct. 1, 1987
0-199	12.00	July 1, 1987	1200-End	14.00	Oct. 1, 1987
200-End	16.00	July 1, 1987	46 Parts:		
32 Parts:			1-40	13.00	Oct. 1, 1987
1-39, Vol. I	15.00	⁴ July 1, 1984	41-69	13.00	Oct. 1, 1987
1-39, Vol. II	19.00	⁴ July 1, 1984	70-89	7.00	Oct. 1, 1987
1-39, Vol. III	18.00	⁴ July 1, 1984	90-139	12.00	Oct. 1, 1987
1-189	20.00	July 1, 1987	140-155	12.00	Oct. 1, 1987
190-399	23.00	July 1, 1987	156-165	14.00	Oct. 1, 1987
400-629	21.00	July 1, 1987	166-199	13.00	Oct. 1, 1987
630-699	13.00	⁵ July 1, 1986	200-499	19.00	Oct. 1, 1987
700-799	15.00	July 1, 1987	500-End	10.00	Oct. 1, 1987
800-End	16.00	July 1, 1987	47 Parts:		
33 Parts:			0-19	17.00	Oct. 1, 1987
1-199	27.00	July 1, 1987	20-39	21.00	Oct. 1, 1987
200-End	19.00	July 1, 1987	40-69	10.00	Oct. 1, 1987
34 Parts:			70-79	17.00	Oct. 1, 1987
1-299	20.00	July 1, 1987	80-End	20.00	Oct. 1, 1987
300-399	11.00	July 1, 1987	48 Chapters:		
400-End	23.00	July 1, 1987	1 (Parts 1-51)	26.00	Oct. 1, 1987
35	9.00	July 1, 1987	1 (Parts 52-99)	16.00	Oct. 1, 1987
36 Parts:			2 (Parts 201-251)	17.00	Oct. 1, 1987
1-199	12.00	July 1, 1987	2 (Parts 252-299)	15.00	Oct. 1, 1987
200-End	19.00	July 1, 1987	3-6	17.00	Oct. 1, 1987
37	13.00	July 1, 1987	7-14	24.00	Oct. 1, 1987
38 Parts:			15-End	23.00	Oct. 1, 1987
0-17	21.00	July 1, 1987	49 Parts:		
18-End	16.00	July 1, 1987	1-99	10.00	Oct. 1, 1987
39	13.00	July 1, 1987	100-177	25.00	Oct. 1, 1987
40 Parts:			178-199	19.00	Oct. 1, 1987
1-51	21.00	July 1, 1987	200-399	17.00	Oct. 1, 1987
52	26.00	July 1, 1987	400-999	22.00	Oct. 1, 1987
53-60	24.00	July 1, 1987	1000-1199	17.00	Oct. 1, 1987
61-80	12.00	July 1, 1987	1200-End	18.00	Oct. 1, 1987
81-99	25.00	July 1, 1987	50 Parts:		
100-149	23.00	July 1, 1987	1-199	16.00	Oct. 1, 1987
150-189	18.00	July 1, 1987	200-599	12.00	Oct. 1, 1987
190-399	29.00	July 1, 1987	600-End	14.00	Oct. 1, 1987
400-424	22.00	July 1, 1987	CFR Index and Findings Aids	27.00	Jan. 1, 1987
425-699	21.00	July 1, 1987	Complete 1988 CFR set	595.00	1988
700-End	27.00	July 1, 1987	Microfiche CFR Edition:		
41 Chapters:			Complete set (one-time mailing)	155.00	1983
1, 1-1 to 1-10	13.00	⁶ July 1, 1984	Complete set (one-time mailing)	125.00	1984
1, 1-11 to Appendix, 2 (2 Reserved)	13.00	⁶ July 1, 1984	Complete set (one-time mailing)	115.00	1985
3-6	14.00	⁶ July 1, 1984	Subscription (mailed as issued)	185.00	1987
7	6.00	⁶ July 1, 1984	Subscription (mailed as issued)	185.00	1988
8	4.50	⁶ July 1, 1984	Individual copies	3.75	1988
9	13.00	⁶ July 1, 1984			
10-17	9.50	⁶ July 1, 1984			
18, Vol. I, Parts 1-5	13.00	⁶ July 1, 1984			
18, Vol. II, Parts 6-19	13.00	⁶ July 1, 1984			
18, Vol. III, Parts 20-52	13.00	⁶ July 1, 1984			
19-100	13.00	⁶ July 1, 1984			
1-100	10.00	July 1, 1987			
101	23.00	July 1, 1987			
102-200	11.00	July 1, 1987			
201-End	8.50	July 1, 1987			
42 Parts:					
1-60	15.00	Oct. 1, 1987			

¹ Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

² No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1987. The CFR volume issued January 1, 1987, should be retained.

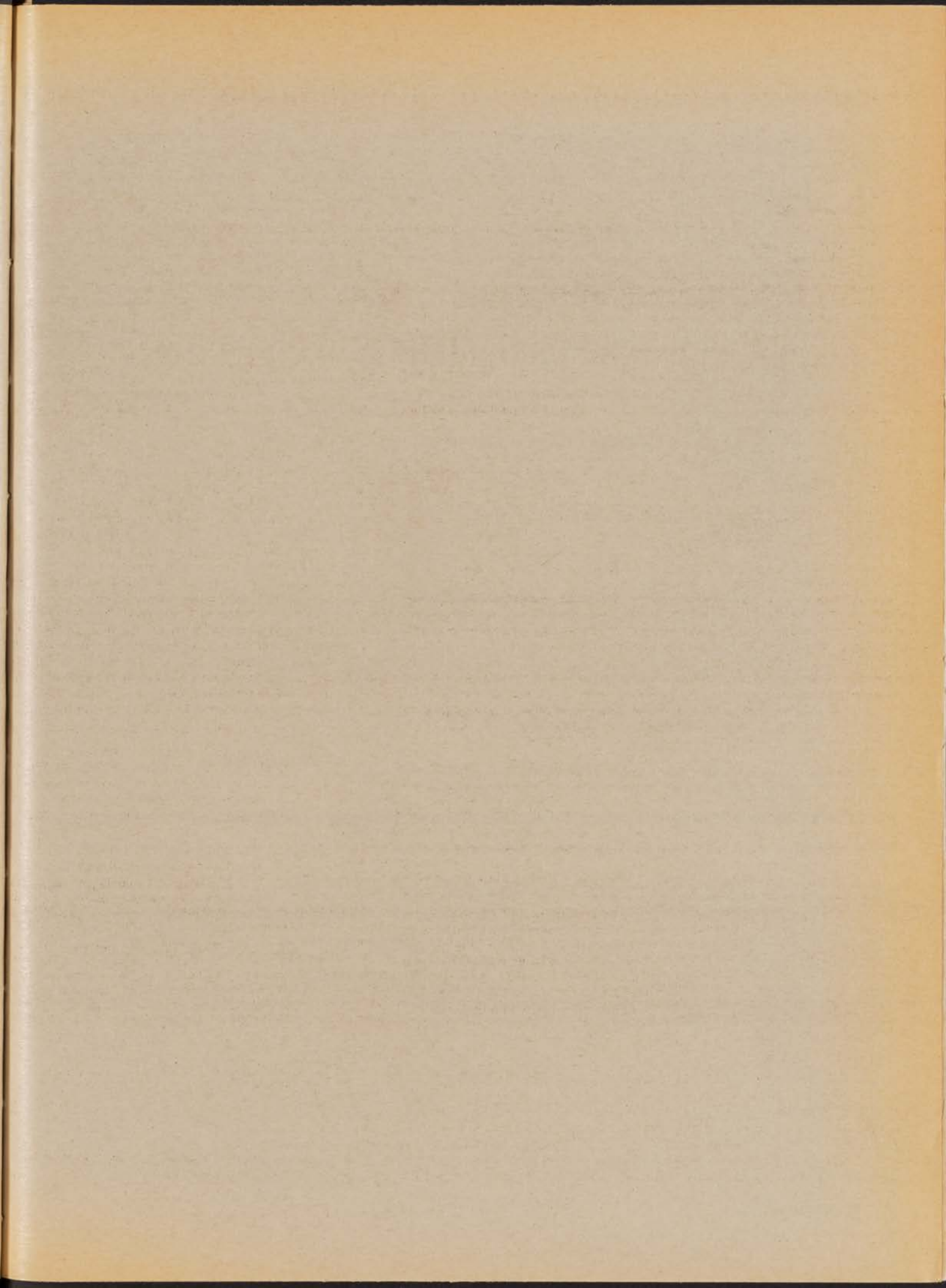
³ No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

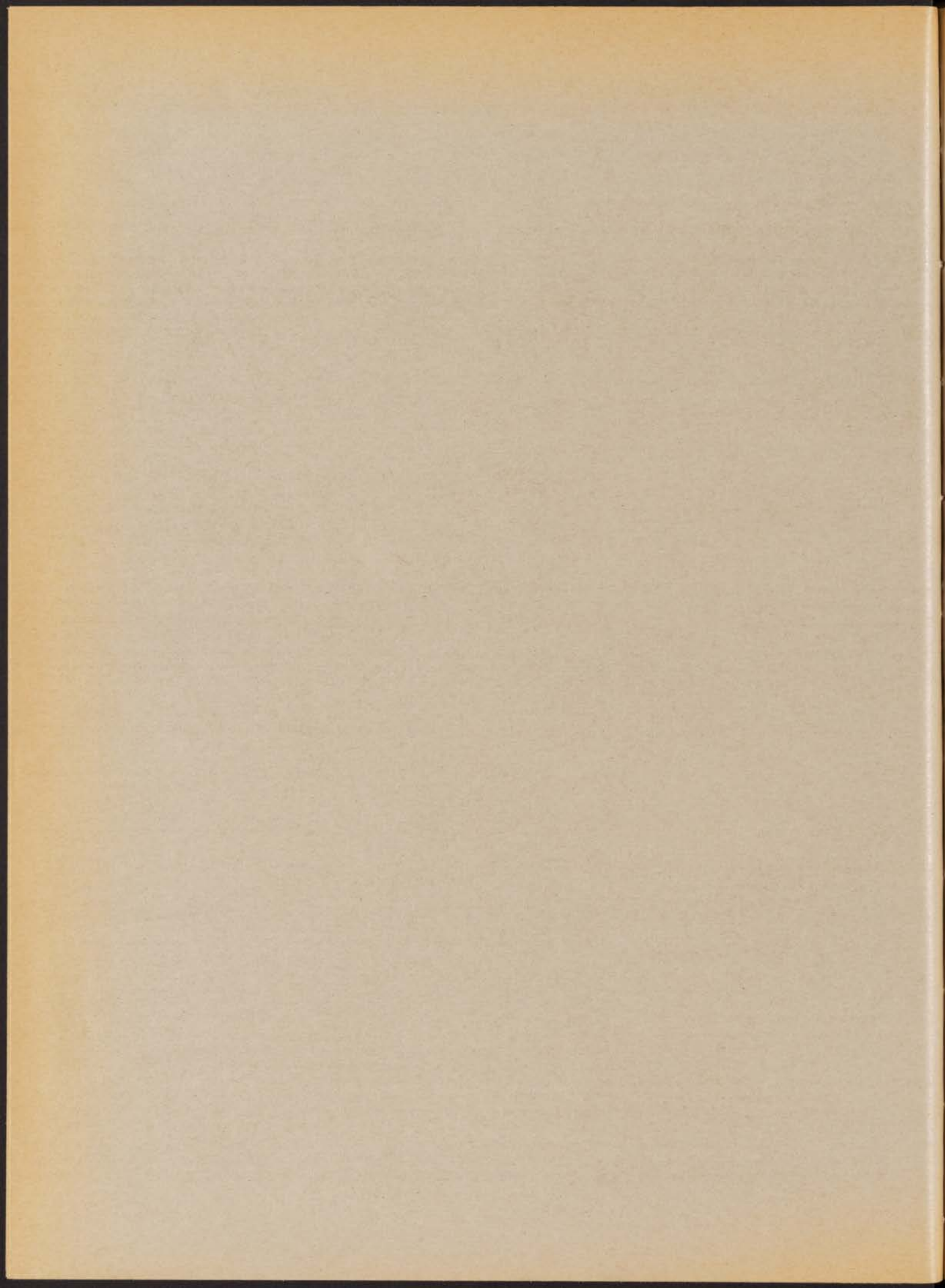
⁴ The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

⁵ No amendments to this volume were promulgated during the period July 1, 1986 to June 30, 1987. The CFR volume issued as of July 1, 1986, should be retained.

⁶ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

Temperature, °C	Density, g/cm ³	Viscosity, cP	Refractive Index, n _D ²⁰	Boiling Point, °C	Freezing Point, °C
-100	0.781	0.15	1.398	100	-100
-90	0.781	0.15	1.398	100	-100
-80	0.781	0.15	1.398	100	-100
-70	0.781	0.15	1.398	100	-100
-60	0.781	0.15	1.398	100	-100
-50	0.781	0.15	1.398	100	-100
-40	0.781	0.15	1.398	100	-100
-30	0.781	0.15	1.398	100	-100
-20	0.781	0.15	1.398	100	-100
-10	0.781	0.15	1.398	100	-100
0	0.781	0.15	1.398	100	-100
10	0.781	0.15	1.398	100	-100
20	0.781	0.15	1.398	100	-100
30	0.781	0.15	1.398	100	-100
40	0.781	0.15	1.398	100	-100
50	0.781	0.15	1.398	100	-100
60	0.781	0.15	1.398	100	-100
70	0.781	0.15	1.398	100	-100
80	0.781	0.15	1.398	100	-100
90	0.781	0.15	1.398	100	-100
100	0.781	0.15	1.398	100	-100
110	0.781	0.15	1.398	100	-100
120	0.781	0.15	1.398	100	-100
130	0.781	0.15	1.398	100	-100
140	0.781	0.15	1.398	100	-100
150	0.781	0.15	1.398	100	-100
160	0.781	0.15	1.398	100	-100
170	0.781	0.15	1.398	100	-100
180	0.781	0.15	1.398	100	-100
190	0.781	0.15	1.398	100	-100
200	0.781	0.15	1.398	100	-100
210	0.781	0.15	1.398	100	-100
220	0.781	0.15	1.398	100	-100
230	0.781	0.15	1.398	100	-100
240	0.781	0.15	1.398	100	-100
250	0.781	0.15	1.398	100	-100
260	0.781	0.15	1.398	100	-100
270	0.781	0.15	1.398	100	-100
280	0.781	0.15	1.398	100	-100
290	0.781	0.15	1.398	100	-100
300	0.781	0.15	1.398	100	-100
310	0.781	0.15	1.398	100	-100
320	0.781	0.15	1.398	100	-100
330	0.781	0.15	1.398	100	-100
340	0.781	0.15	1.398	100	-100
350	0.781	0.15	1.398	100	-100
360	0.781	0.15	1.398	100	-100
370	0.781	0.15	1.398	100	-100
380	0.781	0.15	1.398	100	-100
390	0.781	0.15	1.398	100	-100
400	0.781	0.15	1.398	100	-100
410	0.781	0.15	1.398	100	-100
420	0.781	0.15	1.398	100	-100
430	0.781	0.15	1.398	100	-100
440	0.781	0.15	1.398	100	-100
450	0.781	0.15	1.398	100	-100
460	0.781	0.15	1.398	100	-100
470	0.781	0.15	1.398	100	-100
480	0.781	0.15	1.398	100	-100
490	0.781	0.15	1.398	100	-100
500	0.781	0.15	1.398	100	-100
510	0.781	0.15	1.398	100	-100
520	0.781	0.15	1.398	100	-100
530	0.781	0.15	1.398	100	-100
540	0.781	0.15	1.398	100	-100
550	0.781	0.15	1.398	100	-100
560	0.781	0.15	1.398	100	-100
570	0.781	0.15	1.398	100	-100
580	0.781	0.15	1.398	100	-100
590	0.781	0.15	1.398	100	-100
600	0.781	0.15	1.398	100	-100
610	0.781	0.15	1.398	100	-100
620	0.781	0.15	1.398	100	-100
630	0.781	0.15	1.398	100	-100
640	0.781	0.15	1.398	100	-100
650	0.781	0.15	1.398	100	-100
660	0.781	0.15	1.398	100	-100
670	0.781	0.15	1.398	100	-100
680	0.781	0.15	1.398	100	-100
690	0.781	0.15	1.398	100	-100
700	0.781	0.15	1.398	100	-100
710	0.781	0.15	1.398	100	-100
720	0.781	0.15	1.398	100	-100
730	0.781	0.15	1.398	100	-100
740	0.781	0.15	1.398	100	-100
750	0.781	0.15	1.398	100	-100
760	0.781	0.15	1.398	100	-100
770	0.781	0.15	1.398	100	-100
780	0.781	0.15	1.398	100	-100
790	0.781	0.15	1.398	100	-100
800	0.781	0.15	1.398	100	-100
810	0.781	0.15	1.398	100	-100
820	0.781	0.15	1.398	100	-100
830	0.781	0.15	1.398	100	-100
840	0.781	0.15	1.398	100	-100
850	0.781	0.15	1.398	100	-100
860	0.781	0.15	1.398	100	-100
870	0.781	0.15	1.398	100	-100
880	0.781	0.15	1.398	100	-100
890	0.781	0.15	1.398	100	-100
900	0.781	0.15	1.398	100	-100
910	0.781	0.15	1.398	100	-100
920	0.781	0.15	1.398	100	-100
930	0.781	0.15	1.398	100	-100
940	0.781	0.15	1.398	100	-100
950	0.781	0.15	1.398	100	-100
960	0.781	0.15	1.398	100	-100
970	0.781	0.15	1.398	100	-100
980	0.781	0.15	1.398	100	-100
990	0.781	0.15	1.398	100	-100
1000	0.781	0.15	1.398	100	-100





Code of Federal Regulations

Quantity	Volume	Price	Amount
	Title 7—Agriculture		
_____	Parts 900-999 (Stock No. 869-004-00016-2)	\$26.00	\$ _____
_____	Parts 1200-1499 (Stock No. 869-004-00020-1)	17.00	_____
	Title 10—Energy		
_____	Part 500-End (Stock No. 869-004-00033-2)	24.00	_____
	Title 16—Commercial Practices		
_____	Parts 150-999 (Stock No. 869-004-00051-1)	13.00	_____
		Total Order	\$ _____

Please do not detach

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Credit Card Orders Only

Credit Card No.

							-	
--	--	--	--	--	--	--	---	--

Order No. _____

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		

THE
JOURNAL OF
THE
ROYAL ANTHROPOLOGICAL INSTITUTE

Volume 100, Part 1, 1970

CONTENTS

1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40
41	41
42	42
43	43
44	44
45	45
46	46
47	47
48	48
49	49
50	50
51	51
52	52
53	53
54	54
55	55
56	56
57	57
58	58
59	59
60	60
61	61
62	62
63	63
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
83	83
84	84
85	85
86	86
87	87
88	88
89	89
90	90
91	91
92	92
93	93
94	94
95	95
96	96
97	97
98	98
99	99
100	100

THE JOURNAL OF THE ROYAL ANTHROPOLOGICAL INSTITUTE

1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40
41	41
42	42
43	43
44	44
45	45
46	46
47	47
48	48
49	49
50	50
51	51
52	52
53	53
54	54
55	55
56	56
57	57
58	58
59	59
60	60
61	61
62	62
63	63
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
83	83
84	84
85	85
86	86
87	87
88	88
89	89
90	90
91	91
92	92
93	93
94	94
95	95
96	96
97	97
98	98
99	99
100	100

